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IN THE UNITED STATES DISTRICT FOR  
THE MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

KAREN LURIE, )  
                  )  
Plaintiff,     )  
                  )  
vs.              ) NO. 1:06-cv-0034MEF  
                  )  
                  )  
GLOBE LIFE AND ACCIDENT )  
INSURANCE COMPANY,    )  
                  )  
Defendant.     )

DEPOSITION OF SANDY WHITAKER  
TAKEN ON BEHALF OF THE PLAINTIFF  
IN OKLAHOMA CITY, OKLAHOMA  
ON SEPTEMBER 14, 2006

REPORTED BY: ELIZABETH CAUDILL, CSR, RMR, CRR



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1 A P P E A R A N C E S

2 For the Plaintiffs: Christopher E. Sanspree  
3 (By videoconference) Attorney at Law  
4 218 Commerce Street  
5 Montgomery, Alabama 36104

6 For the Defendant: Robert Poundstone, IV  
7 Philip H. Butler  
8 Attorneys at Law  
9 401 Adams Avenue, Suite 780  
10 Montgomery, Alabama 36104

11 Anastasia Pederson  
12 Attorney at Law  
13 Globe Life Center  
14 204 North Robinson, Suite 300  
15 Oklahoma City, Oklahoma 73102

16 Also Present: Bilinda Hines  
17 (By videoconference)

18 \* \* \* \* \*

## S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and among the attorneys for the respective parties hereto that the deposition of SANDY WHITAKER may be taken on behalf of the PLAINTIFF on SEPTEMBER 14, 2006 in Oklahoma City, Oklahoma, by Elizabeth Caudill, Certified Shorthand Reporter within and for the State of Oklahoma, pursuant to Notice.

IT IS FURTHER STIPULATED AND AGREED by  
and among the attorneys for the respective  
parties hereto that all objections, except as to  
the form of the question, are reserved until the  
time of trial, at which time they may be made  
with the same force and effect as if made at the  
time of the taking of this deposition.

\* \* \* \*

1                                 \* \* \* \* \*

2                                 SANDY WHITAKER,

3                                 having been first duly sworn at 9:11 a.m.,  
4                                 deposes and says in reply to the questions  
5                                 propounded as follows, to wit:

6                                 DIRECT EXAMINATION

7                                 BY MR. SANSPREE:

8                                 Q         Ms. Whitaker, could you state your name  
9                                 for the record, please, ma'am.

10                                A         Sandra Joanne Whitaker.

11                                Q         Ms. Whitaker, we filed a lawsuit, "we"  
12                                 being Ms. Lurie and myself, against Globe Life.  
13                                 And you're aware you're here to testify on behalf  
14                                 of Globe Life?

15                                A         Yes, sir.

16                                Q         And have you seen the deposition notice  
17                                 that I sent out --

18                                A         Yes, sir.

19                                Q         -- in this case? And are you capable  
20                                 of testifying to the areas that I've noticed in  
21                                 the deposition?

22                                A         Yes, sir.

23                                MR. SANSPREE: I don't know if you all  
24                                 have got that, Phil, but I'm going to mark the  
25                                 deposition notice as 1. Do you have a copy of

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1 that?

2 MR. POUNDSTONE: Which one? There was  
3 an initial one that went out, and then we had  
4 individual notices to Sandy and Barbara after  
5 that.

6 MR. SANSPREE: The individual one,  
7 Bobby. The individual notice.

8 (Plaintiff's Exhibit Number 1 marked  
9 for identification purposes and made a  
10 part of the record)

11 Q (By Mr. Sanspree) Ms. Whitaker, have  
12 you read all the requests that I asked for  
13 documents to be produced in accordance with this  
14 deposition notice?

15 A Yes, sir, I have.

16 Q And were there any other documents that  
17 should be produced or that you have that weren't  
18 given to me?

19 A No, sir.

20 Q Okay. Ms. Whitaker, tell us your  
21 position at Globe Life and accident.

22 A I'm the manager of the life claim  
23 department.

24 Q How long have you been the manager of  
25 life claim department?

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1 A Approximately five years.

2 Q And how long have you been with Globe  
3 Life?

4 A 35 years.

5 Q A long time. Where else have you  
6 worked other than Globe Life? Anywhere?

7 A Only in high school I worked different  
8 jobs like high school jobs, but --

9 Q In your 35 years at Globe Life, have  
10 you always been in the claims department or have  
11 you just evolved over to the claims department?

12 A No.

13 Q Tell us about it.

14 A I've always been in the claim  
15 department. I have worked in different areas of  
16 the claim department. I've worked in the steno  
17 section composing letters, I've worked in the  
18 health claims part of it before starting in the  
19 life area.

20 Q Okay. I don't want to ask you any  
21 questions -- you can see where I'm going, but  
22 what I should have asked you is your different  
23 sections you worked in the claim department.

24 How many sections are in the claim  
25 department?

1 A There's just three.

2 Q You said steno? Is that stenography?

3 A Yes; correspondence, answering letters.

4 Q And then you said health?

5 A Yes, health claims.

6 Q Tell me about that. What's involved  
7 with the health section?

8 A Processing health claims. Actually I  
9 was still answering correspondence related to  
10 health policies.

11 Q And what's the third section?

12 A It would be the life claims area. And  
13 I've been in that area since sometime in the  
14 '70s.

15 Q So you've been there about 30 years in  
16 the life section?

17 A Yeah. Yes, sir.

18 Q Are you familiar with the claim that is  
19 at issue in this lawsuit?

20 A I'm sorry?

21 Q Are you familiar with the claim that's  
22 at issue in this lawsuit?

23 A Yes, sir, I am.

24 Q How did you become familiar with it?

25 Were you involved in the claim, itself, or just

1 the litigation?

2 A Yes, sir, I was involved with the  
3 claim.

4 Q Tell me your involvement with the claim  
5 before the lawsuit was filed.

6 A I reviewed the claim, itself. And  
7 based on the information we received, I indicated  
8 that it was a payable claim. I oversaw the  
9 handling of it as the manager.

10 Q All right. Let me stop you there  
11 because that's pretty broad. When you say you  
12 oversaw it, were you actually involved in the  
13 claim or did they just come -- did the people  
14 involved in the claim just come to you with  
15 questions if they have any?

16 MR. POUNDSTONE: Object to the form.

17 MR. BUTLER: Go ahead and answer.

18 MR. POUNDSTONE: You can answer.

19 THE WITNESS: I'm responsible for how  
20 the claims are handled. The claims go through  
21 various steps, and ultimately, depending on the  
22 amount of the claim, it's directed to different  
23 divisions. And this particular one was within my  
24 realm to review.

25 Q (By Mr. Sanspree) I understand what

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1 you're saying, but what I'm trying to ask you  
2 is -- you know, I'm responsible for several  
3 people, but I don't actually do the work. And  
4 ultimately I am responsible for it, but I allow  
5 them to do the work. Is that what you do?

6 A Yes, sir.

7 Q You allow your claim handlers to do the  
8 work, but you're ultimately responsible, but you  
9 allow the people to do the work on the file?

10 A Yes. Other employees have  
11 responsibilities in the handling of the claim.

12 Q And you testified a second ago that you  
13 indicated, based on the information you received,  
14 that it was a payable claim?

15 A At one time in the review of the claim,  
16 yes, I did.

17 Q Do you remember, you know, when was the  
18 time period that you determined the claim was  
19 payable, do you remember?

20 A May I review the file to refresh my  
21 memory?

22 Q Sure.

23 A On May 6th, '04.

24 Q And do you remember when the claim was  
25 actually filed?

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1 A We actually got Proof of Loss, I  
2 believe, approximately March 8th, '04.

3 Q Were you aware of any other  
4 correspondence from any other individuals prior  
5 to March 8th of '04 letting Globe Life know that  
6 the insured had been killed in an accident?

7 A I believe the initial notice we got was  
8 January 26th and received in our office January  
9 30th.

10 Q Are you referring to a letter written  
11 by Mr. Matthews?

12 A Yes.

13 Q Attorney Matthews?

14 A Yes, sir.

15 MR. SANSPREE: And that's Bates  
16 numbered Globe Life/Lurie Karen 027. For the  
17 record, I'm going to mark that as Exhibit 2.

18 (Plaintiff's Exhibit Number 2 marked  
19 for identification purposes and made a  
20 part of the record)

21 Q (By Mr. Sanspree) Now, Ms. Whitaker,  
22 you testified this was the first notice you all  
23 had to the loss at issue; is that correct?

24 MR. POUNDSTONE: Object to the form.

25 THE WITNESS: Yes, sir.

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1 Q (By Mr. Sanspree) In this letter dated  
2 January 26th we've marked as Exhibit 2, it  
3 references a prior telephone conversation that  
4 Mr. Matthews had had with someone at Globe Life.  
5 Do you see that?

6 A Yes, I see that.

7 Q So it wouldn't -- wouldn't Globe Life  
8 actually have been put on notice prior to this  
9 letter dated January 26, 2004, of the loss?

10 MR. POUNDSTONE: Object to the form.

11 THE WITNESS: Well, there's no  
12 indication that there was any other communication  
13 in connection with the report of the death.

14 Q (By Mr. Sanspree) Where are you getting  
15 that from? I mean, I understand your answer, but  
16 I was wondering what you're basing that answer  
17 on.

18 A Well, the information that had we been  
19 put on notice through other communication, the  
20 letter would have been in the file, itself.

21 But this indicates a telephone  
22 conversation, and notice of death reports are  
23 handled through a telephone reporting system  
24 which would have been indicated in our records.

25 Q Okay. Ms. Whitaker, you just testified

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1 that had you gotten notice that there would be  
2 something in the file, itself, with a notice?

3 A No, I said it -- no, sir, that isn't  
4 correct. I said it would have been recorded  
5 through our -- our electronic system.

6 Q I didn't hear you say that. I'm not  
7 trying to argue with you. I'm just saying this  
8 letter was produced to us, and it was in you  
9 all's file. And it does indicate to me that  
10 there was a prior telephone conversation  
11 discussing the death because enclosed is a copy  
12 of the accident report and death certificate.

13 A Well, that wouldn't follow our normal  
14 procedure. Any time a death notice is received  
15 by the phone, it is recorded electronically  
16 through our system.

17 Q Okay.

18 A And there's no indication that that was  
19 done. It would be out of procedure. That's our  
20 procedure to handle notice of death in that  
21 format.

22 Q Okay. I'm with you. Now, if there had  
23 been a telephone conversation as referenced in  
24 this letter by Mr. Matthews which was in you  
25 all's file regarding the death and it's not noted

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1       in the file, then that would be out of procedure?

2                    MR. POUNDSTONE: Object to the form.

3                    THE WITNESS: I'm sorry. Say that one  
4 more time.

5                   Q        (By Mr. Sanspree) You testified that it  
6 would be out of procedure for someone to be  
7 notified at Globe Life of a death but not note  
8 that in the file.

9                   And my question is: If someone at  
10 Globe Life in the claims department had been  
11 notified of the death of Mr. Lurie as referenced  
12 in the letter that's in you all's file produced  
13 to me and it's not noted in the claim file that  
14 they had been notified of the death prior to this  
15 letter of January 26th, would that be out of  
16 procedure?

17                  A        I'm sorry. That was way too long for  
18 me to understand. Would you try to rephrase  
19 that?

20                  Q        I'm horrible at trying to break -- I've  
21 got all these thoughts in my head. Let me try to  
22 get it out to you.

23                   You testified previously that if Globe  
24 Life had been notified of the death, it would  
25 be -- normal procedures would be it would be in

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1 the file; is that correct?

2 MR. POUNDSTONE: Object to the form.

3 THE WITNESS: No, sir.

4 Q (By Mr. Sanspree) Noted in the file?

5 A No, sir.

6 Q Tell me what the procedures are when  
7 you're notified of a death, then.

8 MR. BUTLER: By telephone?

9 MR. SANSPREE: Yes, sir.

10 Q (By Mr. Sanspree) If someone calls you  
11 and tells you an insured has been killed, what do  
12 you do?

13 A The customer service department  
14 receives that phone call. They have an  
15 electronic system that they enter the information  
16 on the system which automatically codes the  
17 policy for death and assigns it a claim number.

18 Q Was that done in this case?

19 A No, sir.

20 Q Do you know why?

21 A Because there's no indication of  
22 receiving a phone call by death -- I mean by  
23 phone.

24 Q Except for a letter dated January 26th,  
25 2004, that we've noted we've marked as Exhibit 2

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1 that was in you all's claim file?

2 A That's what the letter says, but there  
3 would be no reason to believe that we wouldn't  
4 have followed procedures in handling our regular  
5 notice of death in this situation.

6 Q But you don't know that for sure;  
7 correct?

8 A Well, it would be out of procedure, and  
9 there's no indication that there's any other  
10 notations made on the system that we did receive  
11 a phone call.

12 Q But and my question -- and that goes  
13 back to my long question I asked a second ago.  
14 If there had been a phone call and it's not noted  
15 in the file, would that be out of procedure?

16 MR. BUTLER: A phone call giving notice  
17 of death?

18 MR. SANSPREE: Correct.

19 THE WITNESS: Yes, a phone call giving  
20 notice of death and it not being recorded on the  
21 system is out of procedure.

22 Q (By Mr. Sanspree) And you don't know  
23 one way or the other whether there was a phone  
24 call giving notice of death, other than what's in  
25 the file; correct?

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1           A     I don't know one way or the other, but  
2     I don't have any reason to believe that there was  
3     one made that wouldn't have fell into our regular  
4     procedure.

5           Q     Other than the letter that we've marked  
6     as Exhibit 2?

7           A     Right. I understand that.

8           Q     Okay. And just for the record, I know  
9     I've already asked it, but if there had been a  
10    phone call made and you all had been notified of  
11    the death and it not be noted in the file, would  
12    that be out of procedure?

13          A     It's not noted in the file per se.  
14          It's noted on our computer system.

15          Q     Right. And if it's not noted, would  
16     that be out of procedure?

17                MR. POUNDSTONE: Object to the form.

18                THE WITNESS: Yes, it would be out of  
19     procedure.

20          Q     (By Mr. Sanspree) Okay. So your  
21     testimony is that you received a Proof of Loss  
22     statement on May 8th of 2 -- March 8, 2004;  
23     correct? March 6, 2004. I can't remember what  
24     you said. I think it was March 8, 2004.

25          A     I believe that's correct. I'm going to

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1 look through my file to refresh my memory on  
2 that.

3 Yes, on March 8th, 2004, we received  
4 the Proof of Loss documents.

5 Q So you all were on notice -- let me ask  
6 you this. Were you all on notice of the death  
7 prior to receiving the Proof of Loss form?

8 A Yes. The January 30th letter we  
9 received indicated that he was deceased.

10 Q Okay. So I'm going to use -- sometimes  
11 you can waive the requirement to file a Proof of  
12 Loss, so I use that when you're notified of the  
13 loss. What I use is when you're actually  
14 notified -- when the insurance company is  
15 actually notified, I use that date to go with the  
16 claim, because you testified previously that when  
17 you all are put on notice of a loss, it's  
18 assigned a claim number; correct?

19 A Yes, that's correct.

20 Q All right. So I'm going to go from the  
21 January 26th letter and use that it is the  
22 date -- I know you received it on the 30th, but  
23 I'll use that as the date of notification of the  
24 loss; okay?

25 MR. POUNDSTONE: For the purposes of

1 your question?

2 MR. SANSPREE: Just for purposes of  
3 this deposition. Sometimes you can waive a Proof  
4 of Loss -- filing a Proof of Loss requirement,  
5 and just because they didn't get a Proof of Loss  
6 until March 8, 2004, really doesn't amount to  
7 much.

8 They were on notice of the loss at  
9 least by the January 26th letter which references  
10 a prior telephone conversation which is not noted  
11 in the file which would be out of procedure.

12 MR. POUNDSTONE: Object to the extent  
13 that was a question, which it wasn't. Just so  
14 it's understood that you're using that as the  
15 definition for the purposes of this deposition  
16 and we're not making any kind of legal  
17 conclusions one way or the other.

18 You know, if you want her to assume  
19 that when you use that word, then, you know, I  
20 just want that understood on the record.

21 Q (By Mr. Sanspree) Right. I'm going to  
22 use this letter -- Ms. Whitaker, when I ask you a  
23 question about date of notification of the claim,  
24 you agree with me that you all were on notice of  
25 the claim prior to the Proof of Loss being filed;

1 correct?

2 A We were notified of his death but we  
3 had not received adequate Proof of Loss until  
4 March 8th.

5 Q All right. I dug through the file a  
6 little bit, Ms. Whitaker, and I never did see a  
7 reservation of rights letter.

8 Are you aware of any reservation of  
9 rights letter prior to denying the claim in May?

10 A I'm sorry. I don't understand what  
11 that -- what you're talking about.

12 Q I've looked through the file a little  
13 bit, and I noticed that you all denied the claim  
14 in May of '04. Is that your understanding?

15 A The premiums were refunded in May, yes,  
16 that's correct.

17 Q Would that also be the date of denial  
18 of the claim?

19 A Yes.

20 Q All right. So you all denied the claim  
21 in May of '04?

22 A Yes. We refunded the premiums that  
23 were received.

24 Q I think the date you denied the claim  
25 was May 6th of 2004; correct?

Page 20

1                   MR. POUNDSTONE: Object to the form. I  
2 don't think that's right.

3                   Q         (By Mr. Sanspree) I'm sorry. It might  
4 be May 13th. I'm not sure. What is the date  
5 that you said deny the claim and refund the  
6 premiums?

7                   A         Well, on May 13th, we determined that  
8 the premium reinstatement wasn't done  
9 appropriately, and we sent it for review. And on  
10 May 19th, a check was generated.

11                  Q         All right. So on May 13th, now, you've  
12 been on notice of the claim from January. And on  
13 May 13th, you testified that the premiums may not  
14 have been applied correctly? Is that what your  
15 testimony is?

16                  MR. POUNDSTONE: Object to the form.

17                  THE WITNESS: I'm saying that we  
18 realized the reinstatement wasn't completed  
19 accurately.

20                  Q         (By Mr. Sanspree) Okay. I'm going to  
21 refer you to Globe Life/Lurie Karen 03. It's a  
22 handwritten note.

23                  A         Yes, sir.

24                  Q         Is that the May 13th -- what you're  
25 talking about?

Page 21

1 A Yes, sir.

2 Q Any reason why it took so long to  
3 figure out how the premiums were applied?

4 A You know, hindsight's 20/20. Looking  
5 at this, this is a special case given the  
6 circumstances. And I see that we have factors in  
7 place to determine when premiums are reinstated  
8 and when they're not.

9 Apparently we're not perfect, and we  
10 didn't realize at the very beginning that the  
11 reinstatement wasn't completed accurately. But  
12 we have steps in place to determine that we are  
13 handling the claims correctly. And as soon as  
14 this was brought to our attention, we did act  
15 promptly in refunding the premium.

16 Q Who brought it to your attention?

17 A A claims examiner.

18 Q It took him about five months to figure  
19 it out?

20 A Well, actually, the claim was going  
21 through the evaluation process whether it was  
22 even eligible under the terms and exclusions of  
23 the policy.

24 Q Yes, ma'am, and I understand that. But  
25 I understand your prior testimony is you've got

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1 people working for you that you supervise and  
2 you're responsible for?

3 A Yes, sir.

4 Q And you rely on them to gather  
5 information before you make an ultimate  
6 determination on the claim?

7 A Yes, sir.

8 Q And you already testified that you, at  
9 some date, had indicated the claim was payable;  
10 correct?

11 A Yes, sir. But at that time --

12 Q What about --

13 MR. BUTLER: Let her finish her answer.

14 THE WITNESS: But at that time, I  
15 wasn't aware of all the facts and circumstances  
16 in this particular case.

17 Q (By Mr. Sanspree) All right. We'll see  
18 about it. But what I'm getting at is you said  
19 the claim was payable?

20 A Based on the information I had in front  
21 of me at the time, yes.

22 Q And based on the information that  
23 people had gathered on your behalf?

24 A That's correct.

25 Q And you said the claim was payable;

Page 23

1 correct?

2 A Yes.

3 Q And we truck on down about five months  
4 down the road, and all of the sudden somebody  
5 brings it to your attention that the premiums may  
6 not have been applied correctly. Is that your  
7 testimony?

8 A The premiums were applied correctly.  
9 The reinstatement -- you can't reinstate a policy  
10 on someone who's deceased. They didn't -- the  
11 reinstatement application wasn't valid.

12 Q Ms. Whitaker, I understand your  
13 position. Can you explain to me, if you can't  
14 reinstate a person that's deceased, why the  
15 deceased wife keeps getting premium notices on  
16 the same policy?

17 A I wouldn't believe that she would.

18 Q Have you looked through the claim file  
19 and the documents your lawyers have produced to  
20 me?

21 A Yes, sir, I have.

22 Q Do you know that there's a premium  
23 notice after the death sent to my client?

24 A Do you want to direct me to that in the  
25 file so I can review it?

Page 24

1 Q Yeah. Where is it? Hang on a second.

2 Let me find it.

3 It's dated January 16th, I think.

4 Yeah. It's Lurie 01.

5 Just for the record, the death occurred  
6 on January 6th, 2004. Are you aware of that,  
7 Ms. Whitaker?

8 A Yes, sir.

9 Q And this notice was sent to my client  
10 on the 16th of 2004 asking for additional  
11 premiums to be mailed in on the policy.

12 A And you're referencing what?

13 MR. POUNDSTONE: Hey, Chris, I don't  
14 mind you asking her questions about this  
15 document, but just so, you know, we put on the  
16 record, this is more of a premium accounting  
17 function, and Barbara Hernandez would be the  
18 person most knowledgeable about this document.

19 MR. SANSPREE: Okay.

20 Q (By Mr. Sanspree) Anyway, if the policy  
21 hadn't been canceled by January 16th -- let me  
22 ask it different.

23 If the policy had been canceled for  
24 non-payment of premiums, would you all be sending  
25 out some premium notices on the same policy?

Page 25

1           A     I don't understand what you mean by  
2 "canceled."

3           Q     Well, I mean, the position of this  
4 lawsuit is that the policy had lapsed for  
5 non-payment of premiums --

6           A     Yes.

7           Q     -- prior to the death of my insured.  
8 And, you know, I understand that, and I get it.  
9 I know where you all are coming from. But I  
10 don't get the fact that the documents contradict  
11 that.

12                 And what I'm saying is if the policy  
13 had lapsed for non-payment of premiums, why would  
14 my client be getting in the mail premium notices  
15 on the same policy after the death if the policy  
16 had lapsed?

17           A     Well, we weren't notified of the death  
18 until January 30th '04.

19           Q     I know. And I'm with you on that. But  
20 that January 30th, '04, letter indicates a prior  
21 telephone conversation; correct?

22           A     It indicates that.

23           Q     And then January 16th, 2004, which is  
24 Lurie 03 which I'll mark as Exhibit 3 -- am I on  
25 Exhibit 3 or 4?

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1                   MR. POUNDSTONE: Which one is that? My  
2 Lurie 03 is just a blank page.

3                   MR. SANSPREE: Lurie 01. It's Exhibit  
4 3.

5                   MR. POUNDSTONE: I'm sorry. I  
6 misunderstood what you were doing.

7                   (Plaintiff's Exhibit Number 3 marked  
8 for identification purposes and made a  
9 part of the record)

10                  Q       (By Mr. Sanspree) What I'm getting at  
11 is, you get a letter from my client -- or from an  
12 attorney representing my client dated January  
13 26th, 2004, indicating a prior telephone  
14 conversation notifying Globe Life of the death;  
15 correct?

16                  A       Yes.

17                  Q       And then my client gets a premium  
18 notice dated January 16th, 2004. It appears to  
19 me the policy is still in force at that time;  
20 correct?

21                  MR. POUNDSTONE: Object to the form.

22                  THE WITNESS: I'm sorry. The policy  
23 had --

24                  Q       (By Mr. Sanspree) If you look at -- go  
25 ahead. I'm sorry.

A The policy had been reinstated. The system -- we hadn't coded our system. The premium was received prior to us receiving the official notice of death by the letter. And it wasn't suspended or coded for death.

(Cell phone)

MR. SANSFREE: You all need to get that, Phil?

MR. BUTLER: I'll get it. Go ahead.

Q (By Mr. Sanspree) Ms. Whitaker, what you just said was the policy was reinstated prior to you receiving official notification of the death by writing; correct?

MR. POUNDSTONE: Object to the form.

THE WITNESS: Yes, sir.

Q (By Mr. Sanspree) But you actually had had notification via telephone conversation; correct?

A No. I don't have any reason to believe we did.

Q Other than Exhibit 2.

A Exhibit 2 references a phone call.

Q Exhibit 1. I'm sorry.

MR. POUNDSTONE: Exhibit 1's a depo

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1                   MR. SANSPREE: I'm sorry. I'm getting  
2 all confused. Exhibit 2 should be the letter  
3 dated January 26, 2004.

4                   MR. POUNDSTONE: We got that. That's  
5 right.

6                   Q         (By Mr. Sanspree) Other than that;  
7 correct?

8                   A         I'm sorry. Since we've -- I've got off  
9 track here.

10                  Q         You got a telephone -- Exhibit 2  
11 indicates that there was notification via  
12 telephone of the death; is that correct?

13                  A         The letter references a telephone  
14 conversation, but I have no reason to believe  
15 that there was actually one made.

16                  Q         Do you have any reason to believe that  
17 Mr. Matthews is making up that statement in his  
18 letter?

19                  A         No, but it would not be following our  
20 procedure on how we record deaths or notice of  
21 deaths.

22                  Q         And the people that would record that  
23 is back in the customer service department;  
24 right?

25                  A         That's correct.

1 Q Have they made mistakes before in the  
2 past?

3 A I believe everyone makes mistakes  
4 occasionally, but this is a normal -- this is a  
5 normal function of handling claims on a daily  
6 basis.

7 Q Ms. Whitaker, is it possible that the  
8 customer service department had made a mistake in  
9 this case?

10 A It's possible, but it's a routine  
11 procedure, and I wouldn't believe that there  
12 would be any reason for them to.

13 Q What other mistakes has the customer  
14 service department made if it wasn't mistakes  
15 made on procedure?

16 A Well, actually --

17 Q You testified everybody makes mistakes.  
18 And customer service is there to perform a  
19 function and they're there performing a function,  
20 should be performing it according to procedure;  
21 correct?

22 A That's correct.

23 Q And you've testified that everybody  
24 makes mistakes and they've made mistakes before;  
25 correct?

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1 A Yes. There's -- yes.

2 Q What other mistakes could they have  
3 made if they were not mistakes on the procedure?

4 MR. POUNDSTONE: Object to the form.

5 THE WITNESS: Well, in connection with  
6 a life claim and reporting of death, I really  
7 wouldn't see where there would be one.

8 Q (By Mr. Sanspree) Other than the letter  
9 that we've marked as Exhibit 2?

10 A Well, I understand Exhibit 2 references  
11 a telephone conversation, but it would be out of  
12 procedure, it's not within our norm of handling  
13 business affairs or recording deaths. And I have  
14 no reason to believe that this claim wouldn't  
15 have been handled routinely.

16 Q Okay. Now, if you all had been  
17 notified of the death on January 11th or January  
18 12th via telephone conversation by Mr. Matthews,  
19 should that have been noted in the file?

20 A I'm sorry. Would you repeat that  
21 again?

22 Q Yeah. If you had been notified of the  
23 death by telephone conversation by Mr. Matthews  
24 who wrote the letter that's marked Exhibit 2 on  
25 January 11th or March 12th, should that have been

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1 noted in the file?

2 A It would not have been noted in the  
3 file. It would have been noted on our computer  
4 system.

5 Q Should it have been noted on the  
6 computer system --

7 A Yes.

8 Q -- if that happened? Is it possible  
9 that a mistake was made on Globe Life's behalf?

10 A It's possible, but I wouldn't feel like  
11 it would be.

12 Q But you don't know for sure?

13 A No. But I don't have any reason to  
14 believe that it wouldn't have been handled with  
15 the normal realm of business.

16 Q Right, other than the fact that you've  
17 testified the customer service department has  
18 made mistakes before in the past; correct?

19 A I indicated that people make mistakes.  
20 I make mistakes.

21 Q I make mistakes, too. There's nothing  
22 wrong with that. I'm just asking, based upon --  
23 you're saying you don't have anything to indicate  
24 that a telephone conversation was made on January  
25 11th or 12th in the file, but you've also

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1 testified that the customer service department  
2 has made mistakes in the past; correct?

3 A Yes, I've testified that there has been  
4 errors made in customer service, but this is a  
5 routine function that I don't have any reason to  
6 believe that it would have been handled any  
7 different than any other notice of death that  
8 would come through on a telephone reporting  
9 notification.

10 Q Right. And you don't have any reason  
11 to believe that it was done erroneously other  
12 than the fact that the customer service  
13 department has made mistakes in the past, and the  
14 letter that we've marked as Exhibit 2?

15 MR. POUNDSTONE: Object to the form.

16 THE WITNESS: Sir, my personal belief  
17 is is that we handled this claim, there would be  
18 no reason to believe that --

19 Q (By Mr. Sanspree) Ma'am, I don't want  
20 to interrupt you, but I don't want you to testify  
21 to your belief or speculate or anything like  
22 that. Just tell me what you know. I think your  
23 lawyer will tell you that, too.

24 MR. BUTLER: Pardon me just a moment.  
25 You're asking her to speculate on the veracity of

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1 Mr. Matthews' letter. I mean --

2 MR. SANSPREE: Well, no, I'm not,  
3 actually. I'm asking her to testify -- she said  
4 that the claim -- it should have been noted in  
5 the file and she doesn't have any reason to  
6 believe that it was not -- that the phone call  
7 was not made and was not noted in the file  
8 according to procedure.

9 And I asked her, well, you say that but  
10 you don't have any reason to believe a mistake  
11 wasn't made other than the fact that you've  
12 testified previously that mistakes were made, and  
13 the letter dated January 26th which indicates --  
14 which obviously indicates a prior telephone  
15 conversation.

16 MR. BUTLER: Chris --

17 MR. SANSPREE: I'm not asking her to  
18 speculate on that.

19 MR. BUTLER: I'm objecting. I know  
20 that's not a question, but your summary is  
21 inaccurate, but go ahead.

22 Q (By Mr. Sanspree) All right. So just  
23 for the record, Ms. Whitaker, can we just go  
24 ahead and say that the customer service  
25 department has made mistakes in the past,

1 according to procedure?

2 A No, we can't. This is the facts. Our  
3 customer service department has steps in place  
4 and has procedures that when they receive a  
5 notice of death by phone, it is recorded  
6 electronically on the system. And there would be  
7 no reason to believe that if we received a phone  
8 call, this would have been handled any other way.

9 Q Okay. And that gets back to what I was  
10 asking. You keep saying there's no reason to  
11 believe it, but your prior testimony is they've  
12 made mistakes in the past; correct?

13 A I indicated that everyone makes  
14 mistakes occasionally.

15 Q Okay. And then there's no reason other  
16 than that; correct?

17 A There would be no reason to not handle  
18 this routinely.

19 Q Other than the fact it could have been  
20 a mistake; correct?

21 A I'm sorry. I just feel like reviewing  
22 the file, knowing our procedure and this  
23 information, there would be -- there would be  
24 some type of indication on the computer system  
25 had there even been a phone call.

1 Q I understand that. Ma'am,

2 Ms. Whitaker, your testimony is that you don't  
3 believe that they would have done anything other  
4 than follow procedure, and you don't have any  
5 reason to believe they wouldn't have done  
6 anything other than follow procedure when  
7 notified by phone of the death.

8 And my question is simple. You don't  
9 have any reason to believe that they didn't  
10 follow procedure other than the fact that you  
11 know they've made mistakes in the past; correct?

12 A I don't know that they've made  
13 mistakes. I said it's possible. Everyone makes  
14 mistakes. I'm classifying -- you just indicated  
15 that you make mistakes, I make mistakes.

16 Q I think everybody makes mistakes.  
17 Nobody's perfect. I'm just asking the question.

18 A I agree no one's perfect.

19 Q Right. And my question is: You don't  
20 have any reason to believe that they didn't  
21 follow procedure other than the fact that it  
22 could have been a mistake?

23 A I don't believe that they made a  
24 mistake. I don't believe, with a routine notice,  
25 that they would make some type of mistake.

1                    You're asking me what I believe and  
2 what I believe happened in this situation.

3                Q     No, I'm not. You said you don't have  
4 any reason to believe that they didn't follow  
5 procedure, and I'm saying other than the fact  
6 that they could have made a mistake and not  
7 followed procedure.

8                A     It's possible a mistake -- they could  
9 have made a mistake. I don't have any reason to  
10 believe they did.

11                Q     Other than the fact that they could  
12 have done it?

13                A     Well, sir, I can't agree. I'm just  
14 telling you that what I feel that happened on  
15 this, there's no indication of anything else  
16 happening on it until we received our notice on  
17 January 30th.

18                Q     Is it possible that they simply -- in  
19 the customer service department, simply made a  
20 mistake and did not note in the computer system  
21 that a phone call had been made by Mr. Matthews  
22 notifying them of the death of my insured?

23                A     No, I don't believe that.

24                Q     Is it possible?

25                A     No, I don't believe that they would.

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1 Q It's not possible a mistake could have  
2 been made?

3 A I don't believe -- I don't believe that  
4 they would.

5 Q Is it possible?

6 A Anything's possible.

7 Q We'll move on; all right? So building  
8 on that response, you have no reason to believe  
9 that procedure was not followed other than it's  
10 possible that a mistake was made; correct?

11 MR. BUTLER: Object to the form. How  
12 many times are we going to do that, Chris?

13 MR. SANSPREE: If she answers that one  
14 without giving this long speech, I can ask my  
15 next one.

16 MR. BUTLER: I don't think you can  
17 dictate how she answers. But you've asked that  
18 now, I think I've counted about 12 times. In a  
19 minute --

20 MR. SANSPREE: I hadn't got a response.  
21 I keep getting these long responses.

22 MR. BUTLER: Yes, you have.

23 MR. SANSPREE: I get a response but  
24 it's non-responsive.

25 MR. BUTLER: We'll let somebody else

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1 decide that. But nevertheless, I'm not going to  
2 sit here and just do it 20 times.

3 MR. SANSPREE: Can we do it one more  
4 time?

5 MR. BUTLER: Go ahead. One more,  
6 Chris.

7 MR. SANSPREE: I can't even remember  
8 the question now, but I think it was --

9 MR. BUTLER: I'm a very patient person.  
10 I'll let you do it one more time.

11 MR. SANSPREE: I know you are,  
12 Mr. Butler.

13 MR. BUTLER: And don't call me Mr. I'm  
14 old enough as it is.

15 MR. SANSPREE: We're on the record, so  
16 I'm going to call you Mr. Butler on the record.

17 MR. BUTLER: I've been called worse.

18 Q (By Mr. Sanspree) There's no other  
19 reason to believe that procedures were not  
20 followed other than the fact a mistake could  
21 possibly have been made?

22 A There is no reason -- there's no reason  
23 to believe that the procedure wasn't followed in  
24 this -- in this particular situation. It would  
25 have been a routine customer service call.

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1                   MR. SANSPREE: Mr. Butler, can I please  
2 ask her one more time? Because she's not  
3 answering my question.

4                   I'm not trying to be difficult. I'm  
5 just asking there's no reason to believe  
6 procedure wasn't followed other than --

7                   MR. BUTLER: One more time, and this is  
8 it.

9                   Q         (By Mr. Sanspree) Ms. Whitaker, I'm not  
10 trying to beat a dead horse here. What I'm  
11 asking is: You keep saying there's no reason for  
12 you to believe procedure wasn't followed.

13                  I'm just saying, other than the fact  
14 that a mistake could have been made. It's  
15 possible that it could have been made? Is that a  
16 correct statement?

17                  A         Mistakes are possible.

18                  Q         All right. And also, other than the  
19 fact that the letter that's marked as Exhibit 2  
20 indicates that a prior telephone conversation was  
21 made?

22                  MR. BUTLER: Object to the form, and  
23 I'm going to instruct her not to answer. You've  
24 worn my patience out.

25                  MR. SANSPREE: That's a different

1 question.

2 MR. BUTLER: It's the same question --

3 MR. SANSPREE: It doesn't have anything  
4 to do with mistakes. I'm just asking --

5 MR. BUTLER: Here's the problem with  
6 your question. You're asking her to form a  
7 belief tied in with the existence of a  
8 possibility. The lady --

9 MR. SANSPREE: No, not really, but go  
10 ahead.

11 MR. BUTLER: That's two different  
12 things. That's two different things. She can --  
13 she's admitted to you that it's possible that  
14 they could have made a mistake. She doesn't  
15 believe that they did.

16 MR. SANSPREE: Right. And I moved on  
17 after that. I'm on this letter now. There's two  
18 things here. There's two things, Mr. Butler,  
19 that I was trying to get out of this.

20 She's saying that she has no reason to  
21 believe procedures weren't followed, and I just  
22 asked her other than the fact that a mistake's  
23 possible. She said yeah, it's possible.

24 Now I'm saying, and also procedures  
25 might not have been followed because of the

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1 letter that we've marked Exhibit 2 indicates that  
2 there was a prior telephone conversation. And  
3 her prior testimony was --

4 MR. BUTLER: You're asking her to  
5 express an opinion on your co-counsel's letter,  
6 and that's not appropriate.

7 MR. SANSPREE: Well, no. Actually --  
8 she's testifying to how a procedure should be  
9 followed in the claim department. And she's  
10 testified that if a telephone conversation is  
11 made notifying Globe Life of the death, then it  
12 would be noted on the computer system.

13 MR. BUTLER: That's right.

14 MR. SANSPREE: And then I said, well,  
15 is it possible that it was not noted on the  
16 computer system because a mistake was made? We  
17 went down 20 questions, according to you.

18 MR. BUTLER: We did.

19 MR. SANSPREE: She finally says yes,  
20 it's possible that a mistake was made. Then I'm  
21 saying on my next question, is it possible that  
22 procedures wasn't followed also because of this  
23 letter indicates that there was a prior telephone  
24 conversation?

25 MR. BUTLER: That is not an appropriate

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1 question, and I'm going to instruct her not to  
2 answer that. She's already answered it before  
3 and we let it go. But you're asking her to  
4 interpret your client's lawyer's at the time, her  
5 lawyer, the effect of his letter and whether or  
6 not that is indicative of whether a mistake was  
7 made.

8 MR. SANSPREE: I was asking her if it's  
9 possible that a mistake was made in the procedure  
10 at the claim department based upon this letter.

11 MR. BUTLER: She's already answered  
12 that. Let's move on.

13 MR. SANSPREE: How did she answer it?

14 MR. BUTLER: Huh?

15 MR. SANSPREE: Did she answer in the  
16 affirmative?

17 MR. BUTLER: She answered that it's  
18 possible for the customer service people to have  
19 made mistakes, just like it's possible for you  
20 and I and her to make mistakes.

21 MR. SANSPREE: Right. I admit I make  
22 mistakes. I'm just saying -- I'm just asking if  
23 it's possible. I'm asking if this letter  
24 indicates it's possible a mistake was made.

25 MR. BUTLER: You're asking her to form

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1 an opinion based on the lawyer for the plaintiff,  
2 and I think that's improper, and I think you know  
3 that it is.

4 MR. POUNDSTONE: The letter says what  
5 it says. Now you're taking it the next step.

6 MR. SANSPREE: I'm not asking for an  
7 opinion. I'm just asking is it possible a  
8 mistake was made, because the letter references  
9 there was a telephone conversation.

10 MR. BUTLER: That's not a proper  
11 question. I think you know it.

12 MR. SANSPREE: Can she answer it?

13 MR. BUTLER: No. You're asking her to  
14 form a judgment based on the effect of a letter  
15 of the lawyer of your client.

16 MR. SANSPREE: All right. Are you  
17 going to tell her not to answer it?

18 MR. BUTLER: Yes, sir.

19 Q (By Mr. Sanspree) Ms. Whitaker -- and  
20 I've reviewed the file at least once. Can you  
21 tell me why a reservation of rights letter was  
22 never issued to my insured regarding the premiums  
23 being late?

24 A Regarding the premium being late? I  
25 don't understand.

1 Q Well, I mean, we're here because Globe  
2 Life is saying that they didn't receive the  
3 premium payment on time; is that correct?

4 MR. BUTLER: Object to the form.

5 THE WITNESS: I'm sorry. Will you say  
6 that again?

7 Q (By Mr. Sanspree) Why was this claim  
8 denied in this case?

9 A Because the policy wasn't in force at  
10 the time of his death.

11 Q And why was it not in force?

12 A Because the premium wasn't paid in a  
13 timely manner.

14 Q Okay. Now that gets back to what I  
15 just asked you. Can you tell me why a  
16 reservation of rights letter was not sent to my  
17 client before her claim was denied regarding the  
18 premiums being late?

19 A I don't know what that is.

20 Q You don't have any idea what a  
21 reservation of rights letter is?

22 A No.

23 Q And who's responsible for sending out  
24 the correspondence from the claim department to  
25 insureds?

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1           A     Well, the claim -- the claim department  
2     in connection with a claim.

3           Q     All right. And you've been in the  
4     claim department, I guess, for about 30 years;  
5     right?

6           A     Yes.

7           Q     And you have absolutely no idea what  
8     a reservation of rights letter is?

9           A     No, sir.

10          Q     And you have no explanation of why a  
11     reservation of rights letter was not sent to my  
12     insured for over five months before her claim was  
13     denied?

14           MR. BUTLER: Come on, Chris. How could  
15     she answer that if she doesn't even know what a  
16     reservation of rights letter is?

17           MR. SANSPREE: I'm asking her to tell  
18     me why it wasn't sent. She doesn't have to know  
19     what one is, just tell me why it wasn't sent, if  
20     she knows.

21           THE WITNESS: I'm sorry. I don't know.  
22     I mean, I don't know what a reservation of rights  
23     letter is. In May we sent a letter explaining  
24     the findings regarding the claim.

25           Q     (By Mr. Sanspree) Let me ask you this,

1 Ms. Whitaker. Do you know whether or not --  
2 well, I guess you do.

3 My client's premium check, do you know  
4 whether it was actually deposited by Globe Life,  
5 that's at issue?

6 MR. BUTLER: That, again, would be more  
7 properly addressed with the other witness, but  
8 I'm not going to prevent you from asking her  
9 that.

10 THE WITNESS: Would you repeat it?

11 Q (By Mr. Sanspree) Do you know  
12 whether --

13 MR. SANSPREE: I've got a check that's  
14 marked Lurie 02, Bobby.

15 MR. POUNDSTONE: Okay.

16 MR. SANSPREE: I'm looking at it. Is  
17 that the one with her handwriting on the bottom  
18 of it?

19 MR. POUNDSTONE: Yeah.

20 MR. SANSPREE: On the bottom of the  
21 page, not the check. We'll mark that Exhibit 4.

22 (Plaintiff's Exhibit Number 4 marked  
23 for identification purposes and made a  
24 part of the record)

25 Q (By Mr. Sanspree) Do you see Exhibit 4,

1 Ms. Whitaker?

2 A Pardon me?

3 Q Have they showed it to you? Have they  
4 showed you Exhibit 4 yet?

5 MR. POUNDSTONE: She's got it in front  
6 of her.

7 THE WITNESS: Yes, I have it in front  
8 of me.

9 Q (By Mr. Sanspree) It should be a check.  
10 Do you know -- the question probably is for a  
11 different witness, but I'm just wondering: Do  
12 you know whether or not that check was actually  
13 cashed by Globe Life?

14 MR. BUTLER: And Sandy, don't guess. I  
15 don't think he wants an answer whether you think  
16 it was or not. If you know, tell him.

17 MR. SANSPREE: I just want to know  
18 whether she knows.

19 Q (By Mr. Sanspree) Do you know whether  
20 this check was cashed by Globe Life? When I say  
21 "cashed," was it deposited in a Globe Life  
22 checking account?

23 A Well, I don't know if it was deposited  
24 in a Globe Life checking account, but it was --  
25 it was processed.

1 Q What do you mean by "processed"?

2 A Well -- well, it had to be cashed to  
3 advance the status on the policy.

4 Q Right. And I'm just asking what you  
5 mean by "processed."

6 A Well, it's the same as cashed.

7 Q Okay. And do you know -- so Phil won't  
8 have to waste his energy, do you know when the  
9 check was actually cashed --

10 A No, sir. That would be --

11 Q -- by Globe Life?

12 A That would be more of a premium  
13 accounting function.

14 Q How many depositions have you given  
15 before, Ms. Whitaker?

16 A About five.

17 Q Were they all related to claims and  
18 people disputing the claims not being paid?

19 A Yes, sir.

20 Q And were they all given in the course  
21 of litigation where obviously an insured had to  
22 file a lawsuit against Globe Life?

23 A Yes. Actually, I think --

24 Q And when you -- go ahead. I'm sorry.

25 A One deposition was in connection with

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1 some other type of lawsuit someone else was  
2 filing. I don't recall it.

3 Q Were all the depositions you've given,  
4 were they in your capacity as supervisor of the  
5 claims department?

6 A Yes.

7 Q Do you know where those other lawsuits  
8 were pending, what states they were in?

9 A I don't recall.

10 Q Do you know whether or not that any of  
11 them were in Alabama?

12 A Yes, I remember one in Alabama.

13 Q Do you remember -- how long ago was  
14 that deposition given?

15 MR. BUTLER: Chris, do you want me to  
16 answer it for you?

17 MR. SANSPREE: If you want to. I  
18 probably got the information. I just hadn't  
19 looked at it, Phil. Go ahead.

20 MR. BUTLER: I can't for the life of me  
21 remember, but I can find it, the plaintiff's  
22 name. But it was a rescission case over in  
23 Prattville that Cliff and Chip Cleveland had on  
24 plaintiff's side. I can't remember the client's  
25 name. It was about four --

1 MR. SANSPREE: That's fine.

2 MR. BUTLER: -- about four, four and a  
3 half years ago.

4 Q (By Mr. Sanspree) And do you remember  
5 anything about that case, Ms. Whitaker?

6 A Yes, a little bit.

7 Q Was that a case that's similar to mine  
8 that the policy was rescinded?

9 A No, sir.

10 MR. BUTLER: I object to the form of  
11 the question. Your policy wasn't rescinded.

12 MR. SANSPREE: You said it was a  
13 rescission case. I was basing my question on  
14 your statement.

15 MR. BUTLER: You said "like yours."  
16 Your policy wasn't rescinded.

17 MR. SANSPREE: Well, they returned the  
18 premiums back.

19 MR. BUTLER: That's right, but it  
20 wasn't a rescission. You know it wasn't.

21 MR. SANSPREE: All right, Phil.

22 Q (By Mr. Sanspree) Was the plaintiff in  
23 that case Selman, Ms. Whitaker?

24 A Yes, sir.

25 Q And I've also got a Lively versus Globe

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1 Life in Otago County. Do you remember anything  
2 about that?

3 A No, sir.

4 Q Did you give a deposition in that case?

5 A I don't really recall.

6 MR. BUTLER: I don't think so, Chris.

7 MR. SANSPREE: Phil, I'm looking at  
8 discovery responses. The way I'm getting -- the  
9 way I'm picking up this information is you all's  
10 responses but also from her testimony.

11 I think she's only testified in that  
12 Selman case, given a deposition in that Selman  
13 case; is that correct, sir?

14 MR. BUTLER: In Alabama, that's my  
15 recollection. The Lively case didn't proceed  
16 very far. It didn't go as far as depositions.

17 Q (By Mr. Sanspree) Ms. Whitaker -- I'm  
18 not suggesting that you should have reviewed  
19 these -- but have you reviewed these  
20 Interrogatory responses from Globe Life?

21 A Yes, sir.

22 Q And I'm looking at Interrogatory  
23 response number 4.

24 MR. SANSPREE: Phil, do you have those?

25 MR. BUTLER: I do.

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1 Q (By Mr. Sanspree) I think Barbara  
2 Hernandez signed these so, Ms. Whitaker, don't  
3 feel like you should have looked at that. I'm  
4 not saying that. I'm not trying to imply that.  
5 Well, you did sign them, too.

6 A Yes, sir.

7 MR. POUNDSTONE: Yes, she did.

8 MR. BUTLER: What's your question?

9 Q (By Mr. Sanspree) So, ma'am --

10 MR. POUNDSTONE: Are you on number 4?

11 MR. SANSPREE: Yeah. I'm trying to  
12 wait for her to get there.

13 MR. POUNDSTONE: Okay.

14 THE WITNESS: Okay.

15 Q (By Mr. Sanspree) So, ma'am -- first  
16 you see your signature back -- I'm going to flip  
17 off Interrogatory number 4. On page 17, is that  
18 your signature?

19 A Yes.

20 Q And did you review the response before  
21 you signed it?

22 A Yes, sir.

23 Q And so flip back to Interrogatory  
24 number 4. It lists some cases in Alabama, I  
25 think seven cases. Do you see those?

1 A Yes, sir.

2 Q And, ma'am, did you give testimony in  
3 any of these cases other than the Selman case  
4 which is the case number one?

5 A No, I don't believe I did. I don't  
6 recall any of the names.

7 Q Ma'am, I'm just asking if you know what  
8 any of these other cases -- I know you didn't  
9 give deposition testimony.

10 Do you know what any of these other  
11 cases involved, the facts of the cases or  
12 anything like that?

13 A No. I don't recall.

14 Q Ms. Whitaker, are you aware of any  
15 other instances where phone calls were made to  
16 Globe Life that were not documented on the  
17 computer system? Are you aware of any of that  
18 ever happening?

19 MR. BUTLER: Are you speaking of notice  
20 of death phone calls or just any?

21 MR. SANSPREE: Any phone calls,  
22 generally, and then I'll get down to --

23 Q (By Mr. Sanspree) Are you aware of any  
24 phone calls coming in on claims that are not  
25 noted on the computer system?

1 A No, I'm not.

2 Q And then Phil narrowed me down. I  
3 should have done that in the first place.

4 Are you aware of any phone calls coming  
5 in notifying Globe Life of a death that were not  
6 noted on your system?

7 A No, I wouldn't be aware of any.

8 Q Back to Lurie 03.

9 MR. SANSPREE: Bobby, this is one you  
10 all produced to us. It would be Globe Life 03.

11 MR. POUNDSTONE: Okay.

12 Q (By Mr. Sanspree) Ms. Court reporter,  
13 have we marked this as an exhibit yet?

14 THE REPORTER: No, we haven't.

15 (Plaintiff's Exhibit Number 5 marked  
16 for identification purposes and made a  
17 part of the record)

18 Q (By Mr. Sanspree) Ma'am, can you tell  
19 me whose handwriting that is on 03 which we've  
20 marked Exhibit 5?

21 A I'm sorry.

22 Q I'm sorry. Ms. Whitaker, I'm talking  
23 to you now.

24 Ma'am, can you tell me whose  
25 handwriting that is on Exhibit 5 at the bottom

1 part?

2 A Yes. It's a claims examiner by the  
3 name of Wendy Hamrick.

4 Q How do you know that that's her  
5 writing?

6 A Her little initials is at the bottom,  
7 and I'm familiar with her writing.

8 Q The copy you're looking at, does it  
9 have the redacted section down at the bottom,  
10 looks like somebody went through with a magic  
11 marker and marked something out? Do you see  
12 that?

13 A Yes.

14 Q Do you know what's under that? Do you  
15 have a copy that's not blacked out?

16 A Yes.

17 Q Can you tell me what it says?

18 MR. POUNDSTONE: Chris, it's  
19 communications between, I believe, Wendy and the  
20 legal department. So we've asserted the  
21 attorney/client privilege as to that  
22 communication at the bottom.

23 MR. SANSPREE: Sure would like to know  
24 what it says, Bobby.

25 MR. BUTLER: You probably wouldn't. We

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1 might be able to tell you if you agree that it's  
2 not a waiver, but we'll talk about it later.

3 MR. SANSPREE: There's some other  
4 stuff, too, Phil. And Bobby's been nice enough  
5 not to waive some privilege with me when I've  
6 sent him some documents.

7 MR. BUTLER: You mean you made a  
8 mistake?

9 MR. SANSPREE: That would be correct.

10 Q (By Mr. Sanspree) Ms. Whitaker, do you  
11 know what happened to that Selman case? Did you  
12 all go ahead and pay it?

13 A No, sir.

14 Q Just got to ask you.

15 MR. BUTLER: Thank you. She didn't  
16 answer all the rest of the question. Huh?

17 MR. SANSPREE: Go ahead, Phil. I'm  
18 sorry.

19 MR. BUTLER: You didn't let her answer  
20 the rest of the question. You asked her if she  
21 paid it and you asked her if she knew what  
22 happened to it.

23 MR. SANSPREE: I probably don't want to  
24 know the answer to that one.

25 THE WITNESS: No. We won.

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1 Q (By Mr. Sanspree) Let me ask you this,  
2 Ms. Whitaker. The Selman case, did that involve  
3 a late payment of premium, too?

4 A No, sir.

5 Q Did that have to do with some alleged  
6 misrepresentations on the application?

7 A Yes, sir.

8 Q Were they material?

9 A Yes, the health history was material.

10 Q As far as the involvement with your  
11 claim, is it your testimony that you just  
12 supervised the other individuals that were  
13 handling this claim that we're here about today?

14 A Well, it's my responsibility, yes, to  
15 supervise the individuals.

16 MR. BUTLER: He asked you what you did.

17 THE WITNESS: Oh, well, I reviewed the  
18 claim at one time. I've initialed the claim.

19 Q (By Mr. Sanspree) Right. And you  
20 testified previously that initially you  
21 determined that the claim was payable; correct?

22 A Yes, based on the facts of our  
23 investigation of the accident.

24 Q Go ahead. I'm sorry. We've got a  
25 delay here and I keep cutting you off. I'm not

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1       intentionally doing that. It's just there's a  
2       delay between me and you.

3                     Do you remember the date that you  
4       determined it was payable? I may have already  
5       asked you that.

6       A       Yes, it was May 6th, '04.

7       Q       I noticed that you looked down at some  
8       documents. Which documents were you referring  
9       to, please, ma'am?

10      A       Globe Lurie 5.

11                  MR. POUNDSTONE: That's the one -- the  
12       documents produced by us, document 0005.

13                  MR. SANSPREE: I don't have 5. I don't  
14       have 5. I've got 4 and then it goes to 6. Can  
15       you explain to me what the document looks like?

16                  MR. POUNDSTONE: Do you want me to tell  
17       you? At the top it says Life Claims Evaluation  
18       Form.

19                  MR. SANSPREE: I don't have that,  
20       Bobby. I've got 1 -- well, yeah, I do, too.  
21       It's out of order.

22       Q       (By Mr. Sanspree) Can you tell me --  
23       Ms. Whitaker, the copy you have, does it have at  
24       the bottom, is that blacked out, too?

25      A       Yes, sir.

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1 Q Do you have a copy that's not blacked  
2 out?

3 A Yes, sir.

4 Q What does it say?

5 MR. POUNDSTONE: It's the same  
6 attorney/client privilege as to the other  
7 document we referenced, just notations of  
8 communications with the legal department.

9 Q (By Mr. Sanspree) All right.

10 Ms. Whitaker, I noticed -- are those your  
11 initials right there at the bottom by 5-6-04?

12 A Yes, sir.

13 Q And it says "pay", and then your  
14 initials, then 5-6-04; correct?

15 A Yes, sir.

16 Q And then it says "but late premium"  
17 after that; correct?

18 A Yes, sir.

19 Q Is that your handwriting?

20 A No, sir.

21 Q Do you know whose handwriting that is?

22 A Yes, sir.

23 Q Whose is it?

24 A It's Inga Lorrah, the supervisor of the  
25 life claim department.

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1 Q Can you spell her last name for me,  
2 please, ma'am? I think she's in the  
3 Interrogatories.

4 A L-O-R-R-A-H.

5 Q And so at least by May 6th, you all are  
6 going to pay the claim and you all knew the  
7 premiums were late, or allegedly late?

8 MR. POUNDSTONE: Object to the form.

9 THE WITNESS: No. We didn't realize  
10 that the premium reinstatement wasn't done  
11 accurately until May -- approximately May 13th.

12 Q (By Mr. Sanspree) Can you tell me why  
13 it says "but late premium" written on that  
14 document that is dated 5-6-04, then?

15 A Well, someone reviewed the file after I  
16 made that suggestion.

17 Q Do you know that to be true or are you  
18 just speculating as to what may have occurred?

19 A Well, I know that to be true by the  
20 fact that Wendy wrote on May 13th.

21 Q Right. But you don't know whether or  
22 not they knew the premiums were late on May 6;  
23 you're just speculating based on the other  
24 document; correct?

25 MR. BUTLER: Object to the form.

1                   THE WITNESS: Say that again.

2                   Q       (By Mr. Sanspree) What I'm asking is,  
3                   that's not your handwriting. You've testified  
4                   that's Inga Lorrah's handwriting.

5                   A       That's correct.

6                   Q       And you also testified that they wrote  
7                   that -- you hadn't testified to that. Your  
8                   understanding is that was written after the claim  
9                   was reviewed based upon -- at a later date based  
10                  upon another document that's dated May 13, 2004;  
11                  correct?

12                  A       I'm sorry. I couldn't hear you with  
13                  the papers shuffling.

14                  Q       I'm sorry.

15                  MR. SANSPREE: Let me start over, Phil.  
16                  Please let me ask her again so I can start over.

17                  MR. BUTLER: Absolutely.

18                  Q       (By Mr. Sanspree) First, your testimony  
19                  was that's Inga Lorrah's handwriting that says  
20                  "but late premium"; is that correct?

21                  A       Yes, sir.

22                  Q       And do you know one way or the other  
23                  whether that was written on there on May 6, 2004?

24                  A       I don't know if -- I don't believe it  
25                  to be written on there on May 6th.

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1 Q But you don't know one way or the  
2 other?

3 A No, I couldn't give you the actual date  
4 other than the documents in the file.

5 Q Right. My long question was based on  
6 that, so you cleared that up.

7 It says "pay," and it has your initials  
8 dated 5-4-06. After that it's blacked out. Then  
9 after that it says "but late premium"; correct?

10 A Yes, sir.

11 Q So somebody at some point saw that you  
12 said pay it or you had approved the claim;  
13 correct?

14 A That was my suggestion, yes.

15 Q And then they said but it was late  
16 premium.

17 A Yes.

18 Q So at least you can glean from this  
19 document that the benefits were still going to be  
20 paid; correct?

21 MR. POUNDSTONE: Object to the form.

22 Q (By Mr. Sanspree) That it's just late  
23 premium but they were going to pay it?

24 A No.

25 Q That wouldn't be a reasonable

1 interpretation?

2 A No, sir, because all the facts hadn't  
3 come to light. That's why we have steps in place  
4 to make sure the claims are handled accurately.

5 Q Yes, ma'am. But wouldn't it be a  
6 reasonable interpretation from reading this note  
7 down at the bottom -- I have no idea what it says  
8 under that black part -- but wouldn't it be a  
9 reasonable interpretation after reading this note  
10 that you all were going to pay it even though you  
11 knew it was a late premium?

12 A No, sir, that's -- that's not.

13 Q That's not reasonable?

14 A No. I don't agree with that at all.

15 Q I understand you don't agree with it,  
16 but would it be a reasonable interpretation?

17 MR. POUNDSTONE: Object to the form.

18 THE WITNESS: The only reason that --  
19 based on the -- I indicated I believed it was  
20 payable based on the information we received from  
21 the accident.

22 Q (By Mr. Sanspree) Right.

23 A I hadn't been aware of the  
24 reinstatement premium being received after the  
25 date of death. I would have addressed that.

1 Q Okay. Would this be a reasonable  
2 interpretation?

3 MR. POUNDSTONE: Object to the form.

4 Q (By Mr. Sanspree) The claim should have  
5 been paid?

6 A No, the claim shouldn't have been paid.

7 Q Let me ask you this, then. If it's  
8 possible that the customer service department  
9 made a mistake and didn't note on the computer  
10 system that a call had been made notifying Globe  
11 Life of the death, if that's possible and the  
12 mistake had been made and the check sent and  
13 Globe Life cashed it and adjusted the claim and  
14 realized later that they had said the claim was  
15 payable but the premium was late, would the claim  
16 be payable then?

17 MR. POUNDSTONE: Object to the form.

18 THE WITNESS: The claim could have  
19 never been paid. The individual was deceased  
20 prior to receiving money, and the policy wasn't  
21 in force.

22 Q (By Mr. Sanspree) Right. Do you  
23 know -- but you don't know whether you all were  
24 notified prior to cashing the check of the death,  
25 do you?

1           A     No, but it wouldn't make any  
2 difference.

3           Q     I mean, if you're notified of the death  
4 and then you cashed the check, would the claim be  
5 payable then?

6           A     Repeat that one more time.

7           Q     If you were notified of the death prior  
8 to cashing the check and you cashed the check,  
9 should Globe Life go ahead and pay the claim?

10          A     No.

11          Q     If you cashed the check after you knew  
12 he was dead, you wouldn't pay it?

13          A     Well, we couldn't have reinstated it.  
14 The individual was deceased. The policy lapsed.

15          Q     Tell me the safeguards that are in  
16 place to protect Globe Life from receiving phone  
17 calls and not noting the computer system  
18 regarding death claims.

19          A     I'm sorry. I don't understand your  
20 question.

21          Q     Are there any safety measures in place  
22 that Globe Life has to prevent people from  
23 receiving -- in the customer service department  
24 from receiving telephone calls notifying them of  
25 death of insureds so that they have to put it on

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1 the computer system, where they can't just make a  
2 mistake and not just put it on the computer  
3 system? Is there anything --

4 A You would have to address that with --  
5 a representative from customer service would be  
6 able to handle that.

7 Q Are you aware of any safety measures  
8 that are in place yourself as head of the claim  
9 department?

10 A That would be a customer service  
11 representative able to handle that to answer your  
12 question more accurately.

13 Q Well, actually, to answer my question  
14 more accurately, are you aware? Are you aware of  
15 any such measures?

16 A I have no personal knowledge of their  
17 procedures.

18 Q Do you have any knowledge, whether it  
19 be personal or as a company representative?

20 MR. BUTLER: She's not being put up in  
21 that area as a company representative.

22 MR. SANSPREE: She's in the claim  
23 department.

24 Q (By Mr. Sanspree) I was asking as a  
25 claims rep for the company, are you aware of any

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1 safety measures in place to keep customer service  
2 employees from receiving phone calls and not  
3 noting the phone calls regarding deaths on the  
4 computer system? Are you aware of any such  
5 measures?

6 THE WITNESS: As I said, I don't know  
7 what their procedures and safeguards that they  
8 have in place. I don't feel like I'm capable of  
9 giving you an accurate answer on that.

10 Q (By Mr. Sanspree) Are you aware or not?

11 MR. BUTLER: She just answered it,  
12 Chris.

13 MR. SANSPREE: Well, she's not  
14 answering it. She's not saying whether she's  
15 aware of it or not.

16 MR. BUTLER: She hadn't used your  
17 words. She doesn't have to. She said she wasn't  
18 aware of the procedures for the safeguard.

19 MR. SANSPREE: Thank you. Thank you.

20 Q (By Mr. Sanspree) Do you know whether  
21 there are any at all? I know you may not be  
22 aware of what they are, but are there any in  
23 place at all?

24 A I don't know what their procedures and  
25 their policies are and what type of safeguards

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1       they have up there. I would -- I would feel that  
2       there was --

3                    MR. BUTLER: Don't guess.

4                    THE WITNESS: Okay.

5           Q       (By Mr. Sanspree) Let me ask you this,  
6       Ms. Whitaker. Do you all ever take claims and  
7       have a meeting with your claims examiners and  
8       review the files to determine whether or not they  
9       should be payable or not, like in a group  
10      setting?

11       A       I'm sorry. I don't really understand  
12      the question.

13                  MR. BUTLER: You mean like a claims  
14      committee?

15                  MR. SANSPREE: No. Let me try to set  
16      it up first.

17                  MR. BUTLER: Sure.

18           Q       (By Mr. Sanspree) Tell me how, if a  
19       claim examiner has a question, how do they come  
20       to you? First, do they come to you for  
21       explanations?

22       A       Yes, they could come --

23       Q       Or to answer the question?

24       A       They could come to me or they could go  
25       to the supervisor.

1 Q And do they do that on a individual  
2 basis or do you all have, like, a meeting time  
3 where you can meet and review files, or both?

4 A They would do it on a individual basis.

5 Q Do you all -- when I say "you all,"  
6 does Globe Life have, in the claim department, do  
7 you all ever review files like in a group setting  
8 where more than two people are present?

9 A Yes. Yes, two people could review a  
10 file together.

11 Q Do you all have any specific names for  
12 those meetings? I mean, do you call it like  
13 a round table meeting or anything like that?

14 A No, sir.

15 Q Who would be present? Do you all have  
16 any people that specialize -- like a physician or  
17 anything like that that would attend some of  
18 these claims for benefits?

19 A Well, we don't really have -- I think  
20 you're asking if we have a group meeting that  
21 discussed the claim.

22 Q Right.

23 A And we don't have a group meeting. I  
24 thought you were talking about two people,  
25 supervisor and employee, discussing how a claim

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1 should be reviewed.

2 Q In the claim department, do you all  
3 have any physicians that are employed by Globe  
4 Life in your department?

5 A No, we don't have any physician  
6 employed in our department.

7 Q What department are they employed --  
8 would a physician be employed in?

9 A We have a medical director that comes  
10 in to review claims periodically.

11 Q And does that medical director review  
12 life claims?

13 A Yes, he reviews some life claims.

14 Q And when he reviews those life claims,  
15 does he do that by himself or is someone from the  
16 claim department present when he's reviewing the  
17 file?

18 A It could be either way.

19 Q On this file, do you know whether or  
20 not there was ever a meeting discussing this file  
21 and the facts of this case?

22 MR. BUTLER: With the medical director?

23 MR. SANSPREE: No, first in general.

24 MR. BUTLER: Okay.

25 THE WITNESS: No, I'm not aware of any

1 meeting.

2 Q (By Mr. Sanspree) Did you participate  
3 in -- just to clarify your answer, are you  
4 referring to a meeting as being more than just  
5 you and one individual or you're not aware of any  
6 meeting that you had?

7 A I'm trying to understand.

8 Q That's probably a bad question.

9 A Are you asking me if I'm aware of a  
10 group meeting together on this particular claim?

11 Q Yeah, right.

12 A No, I'm not --

13 Q More than just you and the person  
14 handling the claim, the claim adjustor, was there  
15 anybody that -- did you ever have a meeting where  
16 it was just more than you and that person --

17 A No.

18 Q -- on this file? And did you ever meet  
19 with an individual on this file?

20 A I don't really recall. I don't believe  
21 so.

22 Q So when you reviewed the file and  
23 signed off on it, did somebody just leave it in  
24 your office? How did that work?

25 A No. When I reviewed the file on May

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1       6th --

2           Q     Yes, sir.

3           A     -- and I suggested pay on it. This is  
4       over my limit of approval. I can't approve a  
5       \$100,000 claim. And it would have been sent to  
6       our legal area to review.

7           Q     All right. So the legal department,  
8       they reviewed the file to determine whether or  
9       not it should be paid; correct?

10          A     Yes. They reviewed the file to  
11      determine if it was --

12          Q     Okay. So when you -- did you ever meet  
13      with anybody from the legal department on this  
14      file?

15          A     Not that I recall.

16            MR. BUTLER: I assume you're talking  
17      about before the lawsuit.

18            MR. SANSPREE: Right.

19            THE WITNESS: Not that I recall.

20          Q     (By Mr. Sanspree) What is your limit of  
21      payability?

22          A     At this time it's 50,000.

23          Q     What was it at the time this claim was  
24      made back in '04?

25          A     I don't really recall, but it would

1 have been less than 50-.

2 Q Did you just get a promotion? I didn't  
3 mean a promotion. Did they just up your limit  
4 recently to 50,000?

5 A Yes, sir.

6 Q How do you know that it -- okay. When  
7 did they up your limit to 50,000?

8 A I don't recall that, either.

9 Q So if I understand your testimony  
10 correct, you reviewed the file on May 6th, and to  
11 the best of your recollection on an individual  
12 basis. Is that a correct statement of your  
13 testimony?

14 A Yes, sir.

15 Q And you determined, as head of the  
16 claim department, that based on the facts you had  
17 on May 6th, 2004, that the claim should be paid.

18 A Yes.

19 Q Correct?

20 A Based on only the facts that I had in  
21 the medical -- in our investigation in connection  
22 with the accident.

23 Q Right. And so you say -- you note on  
24 the file that it's payable but it's over your  
25 limit; correct?

1 A Yes.

2 Q And so then you forward the file to the  
3 legal department; correct?

4 A Yes.

5 Q What is the legal department's limit of  
6 payability? Any claims or --

7 A I don't know what their limit is.

8 Q I mean, obviously if you have a million  
9 dollar policy -- have you ever had to forward a  
10 million dollar file to the legal department?

11 A No, sir.

12 Q What's the largest file -- when I say  
13 "file," what's the largest benefit claim you have  
14 forwarded to the legal department?

15 A Oh, I believe we've had 250-, possibly  
16 a 300-. I don't recall any --

17 Q All right. Do you know who at the  
18 legal department reviewed this file to determine  
19 whether or not it should be paid after May 6,  
20 2004? Which individual?

21 A Yes.

22 Q Could you tell me, please, ma'am?

23 A Mr. Mitchell.

24 Q What's Mr. Mitchell's first name? Do  
25 you happen to know? Is Mr. Mitchell in the room,

1 by the way?

2 MR. BUTLER: No.

3 Q (By Mr. Sanspree) What's Mr. Mitchell's  
4 first name, please, ma'am?

5 A Brian.

6 Q So he reviewed the file. You looked  
7 down like you're looking at some documents. What  
8 document were you referring to when you found his  
9 name?

10 A I was just reviewing the review sheet.

11 Q Is that Bates numbered?

12 MR. SANSPREE: Bobby, is that something  
13 I've got?

14 MR. POUNDSTONE: I think she was  
15 looking at 0005. But I'm not sure -- she can  
16 tell you. I'm not sure that document is what  
17 jogged her memory as to who it was.

18 Q (By Mr. Sanspree) I don't see his name  
19 on there anywhere on 05. How do you know it was  
20 Brian Mitchell, ma'am?

21 A Well, he normally reviews the files.

22 MR. SANSPREE: Would you be opposed to  
23 me taking his deposition, Phil?

24 MR. BUTLER: Yeah.

25 MR. SANSPREE: He's obviously involved

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1       in determining whether or not this claim should  
2       be paid.

3                    MR. BUTLER: Well, you've also got a  
4       situation where we've been contacted by a lawyer,  
5       and I think his advice on the claims matter -- I  
6       mean, we got notice from a lawyer in June --

7                    MR. SANSPREE: January.

8                    MR. BUTLER: -- and received it January  
9       the 30th, and I think that fits in  
10      attorney/client privilege.

11                  MR. SANSPREE: I'm with you, Phil. I'm  
12      not wanting to get into any of that information.  
13      But from what I got from the file is that  
14      Ms. Whitaker has said the claim was payable but  
15      it was over her limit so she sent it on to the  
16      legal department. Evidently they decided they're  
17      not going to pay it.

18                  MR. BUTLER: I don't think that's the  
19      case. I think the decision was made after this  
20      other lady, Wendy, looked at it. I think she's  
21      addressed that, looked at the premium history.

22                  I'll talk to you about deposing Brian  
23      later, but I'm not --

24                  MR. SANSPREE: I may not need to, Phil.  
25      The way it looks to me is that -- well, you know

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1 how it looks to me. You've been doing it longer  
2 than I have.

3 MR. BUTLER: Do you want to go off the  
4 record just a minute? I don't want to mess up  
5 your deposition.

6 MR. SANSPREE: It doesn't matter  
7 because I'm about done, Phil. I'm not going to  
8 ask her any more about it.

9 MR. BUTLER: I think you're going to  
10 find that the claims examiner by the name of  
11 Wendy -- I can't recall her last name -- is the  
12 one that looked at it after Ms. Whitaker, and  
13 she's the one that looked at the details of the  
14 premium history and on that basis that it was  
15 denied, not a decision by the legal department.

16 Q (By Mr. Sanspree) Ms. Whitaker --

17 MR. SANSPREE: Were we back on the  
18 record?

19 MR. BUTLER: We were on the record then  
20 because you never said otherwise.

21 Q (By Mr. Sanspree) Ms. Whitaker, what is  
22 Wendy's position in the claim department? Is it  
23 Wendy Hamrick?

24 A Yes, sir.

25 Q What is her position in the claim

1 department?

2 A She's a claims examiner.

3 Q And how many claims examiners does  
4 Globe Life have in their life department?

5 MR. BUTLER: In January of '04 --  
6 excuse me. January through May of '04?

7 Q (By Mr. Sanspree) Yes, during while  
8 this claim was pending, how many did you all  
9 have?

10 MR. SANSPREE: Was that Mr. Mitchell  
11 that just walked by?

12 MR. BUTLER: No, that's me.

13 MR. SANSPREE: I'm just playing, Phil.

14 Q (By Mr. Sanspree) Go ahead.

15 A I believe, to the best of my  
16 recollection, it would have been about four.

17 Q And do the claims examiners or did the  
18 claims examiners back in 2004, did they report to  
19 you?

20 A Yes.

21 Q Obviously you've had training in  
22 handling life claims by Globe Life; is that  
23 correct? Is that a fair statement?

24 A Yes, I have training. In 35 years, I  
25 hope I'm trained.

1 Q I was getting to my next question.  
2 What training do claims examiners, those four  
3 claims examiners, what training do they have  
4 regarding looking up people's premium payment  
5 history? Is that something you do on every claim  
6 that comes in?

7 A Yes, before every claim's processed we  
8 verify the policy was in force.

9 Q And was that done on this case?

10 A Yes, prior to --

11 Q Was it --

12 A Yeah, at the time it was being  
13 processed or reviewed, examined.

14 Q How long does it take to check  
15 somebody's premium payment history?

16 A Not very long.

17 Q How long?

18 A Well, it's entering -- bringing up a  
19 screen on the computer.

20 Q About 10 seconds?

21 A No. It takes a little longer than that  
22 to research it.

23 Q 30 seconds?

24 A No. I would think more than a  
25 couple -- maybe five minutes. Two, three --

1 Q So it takes five minutes to check  
2 somebody's premium payment history; correct? Is  
3 that your testimony?

4 A It depends on how detailed it is, how  
5 far you'd have to go back. There's a lot of  
6 factors involved.

7 Q How long would it take to check premium  
8 payment history on Mr. Lurie? You reviewed the  
9 file. Just give me your best guess.

10 A Oh, I believe that she would have spent  
11 several minutes researching it, looking at the  
12 premium history, seeing if there was any other  
13 factors involved through the system. I'd say  
14 maybe -- I just couldn't give you a ballpark  
15 figure.

16 Q I'm looking at a document -- first off,  
17 is it your testimony that when a claim comes in,  
18 it's part of the procedures in the claim  
19 department to check premium payment history? Is  
20 that your testimony?

21 A Yes.

22 Q All right.

23 A I believe --

24 Q I'm sorry. We have a delay and I keep  
25 cutting you off. I don't mean to.

1                   MR. BUTLER: Finish answering your  
2 question.

3                   Q       (By Mr. Sanspree) Right. I'm sorry.

4                   A       When a claim comes in, the claims clerk  
5 reviews and prints out the initial screen and  
6 sends the necessary claim forms.

7                   Q       And you said "initial screen." Are you  
8 referring to the premium history?

9                   A       No, sir.

10                  Q       My question was is it procedure? Is it  
11 the claim department procedure to check the  
12 premium payment history when a claim is made? Is  
13 that part of the procedure?

14                  A       At the time of examination, it's the  
15 procedure to check the premium history. It's a  
16 procedure to review all facts in connection with  
17 the claim.

18                  Q       Do you all have a procedural manual or  
19 anything like that?

20                  A       No, sir.

21                  Q       How do the four claims examiners, how  
22 do they know the procedures that they should  
23 follow?

24                  A       They have one-on-one training when they  
25 begin with the company in our department, with

1 our department.

2 Q Right. And the one-on-one training  
3 that they receive, part of that training is when  
4 a claim comes in, you make sure that the  
5 premium's paid on time and make sure the policy  
6 is in force; correct?

7 MR. POUNDSTONE: Object to the form.

8 THE WITNESS: The claim comes -- the  
9 claim doesn't exact -- doesn't go to the examiner  
10 at the beginning. The notice of death is set up  
11 by a claims clerk who visualizes and sees on the  
12 computer system that the policy's paid current  
13 and sends the necessary requirements for filing.

14 The claims examiner, prior to  
15 determining what benefits would be eligible,  
16 verifies the premium payments and the fact if the  
17 policy was in force.

18 Q (By Mr. Sanspree) So before a decision  
19 is made on whether or not a claim should be paid,  
20 the claims examiner would verify that premium  
21 payments had been made and that the policy was in  
22 force? Is that your testimony?

23 A The claims examiner would verify, prior  
24 to issuing any type of benefits, that the policy  
25 was in force in accordance with the provisions of

1 the policy.

2 Q Do you all have any manuals or anything  
3 that shows -- who trains these claims examiners?  
4 You said one-on-one training. Who's responsible  
5 for doing that?

6 A Myself, the supervisor.

7 Q Who's you all's supervisor?

8 A Inga Lorrah.

9 Q Do you all have anything in writing  
10 that would tell you what all to train these folks  
11 on?

12 A No. As I said, it's one on one.

13 Q So the way I understand the file,  
14 Ms. Whitaker, is that the claim was received in,  
15 processed, you know, over several months, and a  
16 decision was made by yourself that the claim was  
17 payable, correct, on May 6th?

18 A Based on the investigation we did in  
19 connection with the cause of death --

20 Q Right.

21 A -- my suggestion was that it was a  
22 payable claim. Had I been aware of all the  
23 circumstances and facts and the premium -- that  
24 the policy wasn't in force, it wouldn't have been  
25 my suggestion to make payment.

1 Q All right. And you suggested to make  
2 payment. I guess did you verify the premiums had  
3 been made?

4 A No, sir, I didn't.

5 Q Did you verify that the policy was in  
6 force?

7 A No, sir, I didn't.

8 Q So you did not follow procedure of the  
9 claims department?

10 MR. POUNDSTONE: Object to the form.

11 THE WITNESS: I wasn't the examiner to  
12 process the benefits. My suggestion was to  
13 approve the claim. And once it's -- then it goes  
14 to an examiner to determine what benefits would  
15 be eligible under the contract and the provisions  
16 of the policy.

17 Q (By Mr. Sanspree) Okay. So --

18 A And that examiner determined that the  
19 policy was not in force at the time of death.

20 Q So you all get the claim. Evidently  
21 the claim goes to a claim clerk. Can you tell us  
22 who the claim clerk is? Who is that?

23 A Linda Lawson in our area.

24 Q How is that different from a claim  
25 examiner is what I'm trying to get at?

1           A     The clerk is only responsible for  
2 sending out the necessary claim forms.

3           Q     So the clerk just sends out the claim  
4 form. A case was assigned to the claim clerk or  
5 the claim clerk sent out the claim form -- this  
6 case is what I'm referring to -- and the claim  
7 came in and it was assigned to a claims examiner?  
8 Is that true?

9           A     No. The claim -- the claim goes  
10 through several steps during the processing. The  
11 claims --

12          Q     All right. I know you're going to give  
13 me all these steps it goes through, but what I'm  
14 trying to get at, by the time you received the  
15 file on May 6th, had a claims examiner looked at  
16 the file at all?

17          A     No, sir.

18          Q     Who looked at the file before you  
19 decided that it was payable?

20          A     A medical reviewer reviewed the  
21 documents that we received.

22          Q     All right. So from January to May 6th,  
23 a medical reviewer reviewed the file?

24                MR. BUTLER: Object to the form.

25          Q     (By Mr. Sanspree) Who else reviewed it?

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1           A     No, sir. When we received notice of  
2 death, a claims clerk reviewed the letter, sent  
3 the necessary claim forms. Once that information  
4 was received in March, we conducted an  
5 investigation.

6           Q     Who is "we"?

7           A     The company.

8           Q     How? I mean, the company can't do it.  
9 Did the claims examiner do it?

10          A     Our department, the people in the life  
11 claims unit.

12          Q     Everybody? I'm trying to just figure  
13 out who looked at it. Did a claims examiner look  
14 at it?

15                 The company's incorporated down at the  
16 state. The company can't do it and the claim  
17 department can't do it. It's got to be somebody  
18 in the claim department, an employee that  
19 reviewed the file.

20                 Do you know who it was in your life  
21 department that reviewed the file other than a  
22 medical reviewer and the claim clerk --

23                 MR. BUTLER: And herself?

24          Q     (By Mr. Sanspree) -- prior to May 6th?

25          A     Yes. Ms. Knudson reviewed the file.

1 Q Can you spell her last --

2 A K-N-U-D --

3 Q I'm sorry?

4 A K-N-U-D-S-O-N.

5 Q Okay. Go ahead. So she reviewed the  
6 file. I cut you off, and I apologize.

7 A And she assigned it to an outside field  
8 service to obtain the accident report and the  
9 toxicology report -- or the coroner's report and  
10 the toxicology report.

11 Q The coroner's report and the toxicology  
12 report, they're not at issue in this lawsuit, are  
13 they?

14 A No, sir.

15 Q Okay. And who is Ms. -- how did you  
16 say her last name? Knudson?

17 A Knudson.

18 Q What is her position with the company?  
19 Or what was her position with the company?

20 A I don't really recall exactly what her  
21 title was back then.

22 Q Is she a claims examiner?

23 A No, she wouldn't have been a claims  
24 examiner. She would have been a coding.

25 Q In your Interrogatory responses, number

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1       6, you've got her listed as a claims examiner but  
2 she's no longer with the company.

3           A     Well, like I say, I just didn't recall  
4 at this time.

5           Q     Was she a claims examiner, Ms. Knudson?  
6 First -- I'm jumping ahead. You can review your  
7 responses if you want to. I'm reading from  
8 response number 6.

9           MR. POUNDSTONE: Have we marked those?

10          MR. SANSPREE: No, Bobby, I didn't.

11          MR. POUNDSTONE: I just found them.

12          MR. SANSPREE: I will if you want me  
13 to.

14          MR. POUNDSTONE: It's up to you. She's  
15 got them in front of her now. I was just trying  
16 to find them in my stack of paper here.

17          MR. SANSPREE: Let's mark those as 6,  
18 Bobby, if you don't mind.

19          MR. POUNDSTONE: Okay.

20          MR. SANSPREE: Ms. Court Reporter, what  
21 did we mark as Exhibit Number 4?

22          MR. POUNDSTONE: I've got it. It's  
23 Ms. Lurie's check, the premium check, with her  
24 handwritten notes down below it.

25          MR. SANSPREE: Thanks, Bobby.

1 Hey, Bobby?

2 MR. POUNDSTONE: Uh-huh.

3 MR. SANSPREE: Can you hear me?

4 MR. POUNDSTONE: Yeah.

5 MR. SANSPREE: Evidently she's looking  
6 at the responses; correct?

7 THE WITNESS: Yes, sir.

8 Q (By Mr. Sanspree) Does that refresh  
9 your recollection as to Mrs. Knudson's position  
10 with the company back in 2004?

11 A Yes, sir. Yes, sir.

12 Q Is it your testimony that after  
13 reviewing the documents, that Ms. Knudson was a  
14 claims examiner?

15 A Yes, sir.

16 Q And so back to the file and how it was  
17 handled. The claims clerk reviewed the letter  
18 and issued the claim form information. Then a  
19 medical reviewer reviewed the file; correct?

20 A No, sir.

21 Q All right. Tell me the steps, then.  
22 The claims clerk got the notification.

23 A Sent the claim forms.

24 Q Right. Okay.

25 A The claim information was received

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1 approximately March 8th. Ms. Knudson would have  
2 looked at the information and determined if any  
3 additional material was needed.

4 Q And your prior testimony was that the  
5 claims examiner should check and verify that  
6 premiums had been paid and the policy was in  
7 force; correct?

8 A Yes.

9 Q Did Ms. Knudson do that at that point?

10 A I don't know what was in Ms. Knudson's  
11 mind at that time or what her reasoning was or if  
12 she verified that the system indicated that it  
13 was paid to January 8th, '04.

14 MR. BUTLER: January 8th?

15 THE WITNESS: January 28th, '04.

16 Q (By Mr. Sanspree) Okay.

17 A And if it wasn't done --

18 Q Go ahead. I'm sorry. I keep cutting  
19 you -- we have a lag in time.

20 A And I don't know -- I don't know what  
21 was in her mind or if she didn't realize it or if  
22 she believed the reinstatement was done  
23 accurately or just noted that the system  
24 indicated that it was paid to January 28th, '04  
25 and proceeded with assigning it to ICS to obtain

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1 the additional information we needed to determine  
2 if it was eligible.

3 Q Who is ICS, please, ma'am?

4 A It's an outside field service that we  
5 use occasionally.

6 Q Is that the outside service that got  
7 the accident report and toxicology report and all  
8 that you referred to earlier?

9 A Yes, sir.

10 Q Now, if Ms. Knudson did not verify the  
11 premium payments or whether or not the policy was  
12 in force, would that be a violation of the  
13 procedures of the claim department?

14 A Well, as I said, I don't know what  
15 Ms. Knudson's thinking was or what her review at  
16 that time was or even if she did bring it to look  
17 at that screen.

18 Q I understand you don't know what she  
19 did because we'll have to ask her what she did.  
20 But assume with me that that was not done. Would  
21 that be a violation --

22 A Well, her --

23 Q Go ahead. I'm sorry.

24 A An examiner in that certain situation,  
25 she wasn't processing the benefits. She was only

1 starting to conduct the investigation.

2 Q And part of the investigation would be  
3 to verify the premium payments; correct?

4 A Well, she normally should have done  
5 that. But as I said, if she verified the  
6 reinstatement was done accurately at that time,  
7 I'm just not aware of it. As I said, I don't  
8 know what she looked at.

9 Q Why is she no longer with the company?

10 A She's transferred to another company.

11 Q When you say "transferred," is that a  
12 Globe Life company?

13 A Yes, a sister company. She moved.

14 Q Does Globe Life own that sister  
15 company?

16 A I don't know if we own it or how we're  
17 related. I just know it's one of our sister  
18 companies.

19 Q So in response to Interrogatory number  
20 6 when you said "No longer employed by Globe,"  
21 you're not really sure whether she is employed by  
22 Globe or not?

23 A She's not employed by Globe.

24 Q Do you know the name of the sister  
25 company she's employed by?

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1 A United American Insurance Company.

2 Q Where is that located?

3 A McKinney, Texas.

4 Q Do you know what capacity Ms. Knudson's  
5 employed with United American Insurance Company,  
6 what's her job title over there?

7 A No, sir, I don't.

8 Q Is she in the claims department, do you  
9 know?

10 A I don't know.

11 Q All right. Now, you said normally she  
12 should have checked to verify the premium  
13 payments and should have checked and verified  
14 whether or not the policy was in force. What did  
15 you mean by "normally"?

16 A As a general rule, I would believe that  
17 that would have been her procedure.

18 Q And what are you basing your belief  
19 upon?

20 A Well, that's -- normally that would be  
21 something that she would look at had she gone to  
22 another screen.

23 Q And you testified previously there's  
24 nothing in writing, she just receives this  
25 training about what she normally should have done

1 from individuals, correct, one on one?

2 A Yes, sir.

3 Q And did she receive her training from  
4 you?

5 A I don't recall if I trained her in this  
6 particular position or if it was Inga.

7 Q But when you train people, do you tell  
8 them to verify premium payments and to check  
9 whether or not the policies are in force?

10 A Yes, when the -- before the examiner  
11 processes any benefits, yes.

12 Q And during the investigation phase?

13 A Yes. It would have been -- hindsight  
14 would have been great looking at it before  
15 starting an investigation.

16 Had that been done -- or had we been  
17 aware of all the facts, had Mr. Matthews brought  
18 it to our attention that there was a question  
19 regarding the premium payments back in his  
20 original letter, we could have addressed that.  
21 But this is an unusual case.

22 Q So I'm trying to get down the  
23 procedures. Would you agree with me that  
24 determining whether or not the premiums had been  
25 paid on time and whether or not the policy was in

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1 force, is that part of an investigation phase of  
2 the claim?

3 A Yes, it would have been. In this  
4 particular case it would have been nice to have  
5 realized that at the beginning or been put on  
6 notice that the policy was not reinstated  
7 properly. It didn't meet reinstatement.

8 Q Now, once a claim is -- say it's  
9 approved by you and you don't have to send it to  
10 legal because it's -- say it's under \$50,000.  
11 Once you approve a claim, take me through the  
12 steps after. What do you do with the file after  
13 that?

14 A I would give it to an examiner to  
15 process the benefits or determine the eligibility  
16 of the benefits.

17 Q Wouldn't you determine eligibility of  
18 benefits before you recommend that it be paid?

19 A Well, my decision was based on the  
20 facts in the file at that time. And my  
21 decision --

22 Q Wasn't --

23 MR. BUTLER: Wait a minute. You're  
24 cutting her off.

25 MR. SANSPREE: I can't help it, Phil.

1 I'm not doing it on purpose. There's a lag  
2 between her statements and my questions, and  
3 sometimes I think she's done and she's not.

4 MR. BUTLER: Well, I know it.

5 Q (By Mr. Sanspree) Go ahead. I'm sorry.  
6 Go ahead and finish.

7 MR. BUTLER: Finish your statement all  
8 the way through without pausing so much, please,  
9 ma'am.

10 THE WITNESS: My decision was based on  
11 the facts that was in the file at that time. My  
12 decision was based on -- and my recommendation on  
13 the facts of investigating the accident, itself.

14 Now, assigning it to an examiner, it's  
15 their responsibility at that time, before any  
16 payment is issued, to verify that the  
17 reinstatement was done correctly, that the policy  
18 was in force at the time of death, and in  
19 accordance with the provisions of the policy  
20 issue any type of benefits that would be  
21 available.

22 After the examiner reviewed this and  
23 found that the premiums weren't paid correct on  
24 time, that it wasn't reinstated accurately, it  
25 was -- it was determined that the claim wasn't

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1       eligible, and we promptly refunded the premium.

2           Q     (By Mr. Sanspree) Okay. I understand  
3     on this case that's what you're claiming  
4     happened. I was asking generally if a claim -- I  
5     was asking you to speculate maybe, Phil.

6                   Say a claim came in under \$50,000 which  
7     is under your limit and you approved payment. I  
8     was just asking you what you do with it then. I  
9     mean --

10                  MR. BUTLER: She just told you, Chris.

11                  MR. SANSPREE: Right. I know, but then  
12     she went down this long statement of what  
13     happened on this file.

14                  Q     (By Mr. Sanspree) It just goes to --  
15     tell me where it goes. If it's under your limit  
16     and you approve it, where does it go from there?

17                  A     It goes to a claims examiner who  
18     would --

19                  Q     Okay. And then --

20                  A     -- who would determine that the policy  
21     is in force and determine what benefits were  
22     eligible and to question anything that they felt  
23     like was inappropriate or incorrect with the  
24     claim, itself, and bring it to my attention again  
25     or to a supervisor.

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1 Q Okay. Were you through? I don't want  
2 to interrupt you.

3 A Yes, sir.

4 Q So it goes to the claims examiner.  
5 Where does it go from there? Say they approved a  
6 claim. Where do they send the file from there,  
7 or do they send it anywhere?

8 A No, they don't send it anywhere. They  
9 would -- they would calculate the benefits that  
10 would be available under the policy contract,  
11 enter it into the system, and a check would be  
12 generated. And the checks would be --

13 Q Do you --

14 A The checks would be periodically  
15 audited in order to determine that they are  
16 issued correctly.

17 Q Who generates those checks? Is it a  
18 separate department or do you all do it in the  
19 same department?

20 A Well, the information's entered through  
21 the computer system, and then the checks are  
22 issued from the computer.

23 Q So it's your testimony that only after  
24 you okay -- only after you okayed the payment on  
25 this claim that we're here about today, only

1 after that is when they determine whether the  
2 policy's in force and whether the premiums have  
3 been paid and whether or not they're eligible for  
4 the benefits?

5 A In this particular case, the examiner  
6 reviewed it when they were determining it and  
7 determined that the premiums and reinstatement  
8 wasn't done correctly. It wasn't in force at the  
9 time.

10 Q And that was after -- go ahead. I'm  
11 sorry. When you stop, I think you're through.

12 A That it wasn't in force at the time of  
13 death, the examiner determined that.

14 Q And that was after it had been sent to  
15 the legal department?

16 A Yes.

17 Q Is it standard for the company to, on  
18 death claims, to always get a toxicology report?

19 A It's not standard. It is -- it would  
20 be in this particular case.

21 Q Why?

22 MR. BUTLER: Are you limiting your  
23 question to this policy type, Chris?

24 MR. SANSPREE: I was just saying death  
25 claims.

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1                   MR. BUTLER: I object to the form,  
2 then. You know that they have a number of  
3 different policy types of life insurance.

4                   MR. SANSPREE: Right, but there's only  
5 one type of death.

6                   MR. BUTLER: No, there's not, either.  
7 There's more than one type of death.

8                   MR. SANSPREE: Well, there's different  
9 causes of death. There's only one type of death  
10 I'm aware of.

11                  THE WITNESS: I'm sorry. Do you have a  
12 question for me?

13                  Q        (By Mr. Sanspree) What I asked you was,  
14 was it you all's procedure on death claims to get  
15 a toxicology report on the deceased?

16                  A        No, it's not standard procedure.

17                  Q        Can you tell me why -- I think you  
18 testified on this case you all did? Why did you  
19 all do it on this case?

20                  A        Because this particular policy type has  
21 several exclusions and limitations that need to  
22 be met, and we didn't have enough facts and  
23 circumstances surrounding the accident to  
24 determine if it would have met those criterias.

25                  Q        So you all were originally looking at

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1 the claim to see whether or not the deceased was  
2 intoxicated so he would fall within the  
3 exclusions?

4 A That -- that would be one -- that would  
5 be one question we had, but there could be many  
6 other circumstances involved.

7 Q So from the very beginning, the claim  
8 was being evaluated so not to be paid but to  
9 determine whether or not there were any  
10 exclusions in force?

11 A No, sir.

12 MR. POUNDSTONE: Object to the form.

13 THE WITNESS: Our job is to --

14 Q (By Mr. Sanspree) Why did you -- go  
15 ahead.

16 A Our job is to process claims, make  
17 payments on claims. We are trying -- we were  
18 trying to obtain the information to determine if  
19 it was eligible.

20 Q So the toxicology report came back  
21 negative; correct?

22 A Yes, sir.

23 Q So then you move on to some other --  
24 what did you investigate the file after that?  
25 How did you do it or how did somebody do it on

1 your behalf?

2 A After we reviewed the toxicology  
3 report, it was reviewed by our medical director.

4 Q And who was that, by the way? You said  
5 that earlier. I never did follow up with that.  
6 Who is you all's medical director at that time?

7 A Dr. Stanley McCampbell.

8 Q Okay. So he reviewed the file. Why  
9 was he reviewing the file?

10 A Just to review the toxicology report to  
11 verify that there wasn't anything that we might  
12 not be aware of and that it met the guidelines of  
13 accidental death.

14 Q I note on your Interrogatory responses  
15 you got Dr. McCampbell is retired. Do you know  
16 what his training was as far as the insurance  
17 business, in interpreting insurance language?

18 A I -- he had years of experience. As  
19 far as any type of degrees and that sort of  
20 thing, I wouldn't be able to give that to you.

21 Q But is it your testimony that you are  
22 allowing him to determine whether or not the  
23 claim fell within the insurance policy wording?

24 A No. We reviewed it with him to get his  
25 opinion.

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1 Q On -- did you get his opinion on the  
2 medical records or for the insurance claim  
3 purposes?

4 A He reviewed the medical records and the  
5 medical examiner's report.

6 Q Okay. But you all weren't asking him  
7 to make a determination whether or not a claim  
8 should be paid under the terms of the policy,  
9 were you?

10 A No, sir.

11 Q What type of training have the claim  
12 examiners had regarding interpretation of policy  
13 language? Do you all train them on that?

14 A Yes, they would be familiar with the  
15 guidelines and the provisions of the policy.

16 Q How do you know that to be true?

17 A Well, in this particular instance, we  
18 requested a duplicate policy so we would have it  
19 in the file.

20 Q Right, but how do you know that they  
21 would be familiar? When I refer to "they," I'm  
22 referring to claims examiners in your department.  
23 How do you know they would be familiar with the  
24 policy terms?

25 A Well, they would be asked to read over

1 a policy during their training.

2 Q Is that something that you do when  
3 you're training these claims examiners? Do you  
4 go over policy terms and conditions and stuff  
5 like that with them?

6 A Yes, in the past I have.

7 Q When you say "in the past," you looked  
8 like that's not something you normally do. Is  
9 that something -- do you normally do that?

10 A I don't norm -- I don't do it on a  
11 daily basis.

12 Q When you're training these claims  
13 examiners, though, do you normally do it? I know  
14 you probably don't train them on a daily basis.  
15 But when you're providing them with training, do  
16 you go over policy terms and conditions and try  
17 to explain it? I've been doing insurance work  
18 for several years, and I'm still learning.

19 A That's true.

20 Q As you can tell.

21 A Right. And we have very -- we have  
22 several different types of policies. And that's  
23 why we requested a duplicate policy so we would  
24 have the policy terms and provisions in the file  
25 in case someone --

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1 Q But --

2 A -- in case someone --

3 Q Go ahead. I'm sorry.

4 A -- in case someone needed to refer to  
5 it to handle the claim correctly.

6 Q But I'm just trying to understand the  
7 training. Any training they would receive would  
8 be, again, on the one on one from either you or  
9 Ms. Inga?

10 A Yes.

11 MR. SANSPREE: If you hang on one  
12 second, I may be getting close to the end, which  
13 I'm sure you're glad.

14 MR. BUTLER: Do you want me to go ahead  
15 and call the other person?

16 MR. SANSPREE: Yeah, Phil, if you don't  
17 mind.

18 MR. POUNDSTONE: Do you mind taking a  
19 quick break?

20 MR. SANSPREE: Go ahead. Take one if  
21 you need it.

22 (Break from 11:08 to 11:21)

23 Q (By Mr. Sanspree) Ms. Whitaker, from  
24 your testimony, is it fair to say that claims  
25 that are over \$50,000, once you okay them to be

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1 paid, that you forward those on to the legal  
2 department?

3 A Yes.

4 Q And then to the best of your knowledge,  
5 does the legal department review the file along  
6 with the policy?

7 MR. BUTLER: If you know.

8 THE WITNESS: I couldn't tell you what  
9 all factors that they look at.

10 Q (By Mr. Sanspree) Do you forward the  
11 file to them?

12 A Yes, they would have --

13 Q The claim file?

14 A Yes, they have the file.

15 Q And in that file, is the policy  
16 included or a specimen policy?

17 A Yes. In this case there would have  
18 been.

19 Q And to the best of your knowledge, the  
20 legal department would review the whole claim  
21 file; correct?

22 MR. BUTLER: She's already answered  
23 that question. She said she didn't know what  
24 they reviewed.

25 MR. SANSPREE: That's why I said to the

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1 best of her knowledge they would review the whole  
2 claim file; correct?

3 MR. BUTLER: She can't have any  
4 knowledge if she doesn't know.

5 Q (By Mr. Sanspree) You sent the claim  
6 file to the legal department. I guess I am going  
7 to have to depose somebody from the legal  
8 department to see whether or not they review the  
9 claim file. I mean, it's a simple question.

10 You sent the claim file to them that  
11 included the claim information you have, and you  
12 okayed it May 6th, 2004; correct?

13 A Yes. Based on the information that was  
14 in the file at that time, yes.

15 Q And in that claim file that you  
16 forwarded to the legal department, did it also  
17 include a copy of the specimen policy?

18 A Yes.

19 Q All right. And the duties of the legal  
20 department, are they to look at the policy -- to  
21 your knowledge, are their duties to look at the  
22 policy in the claim file to see whether or not  
23 any exclusions apply?

24 MR. BUTLER: If you know.

25 MR. SANSPREE: You can tell Phil's been

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1 doing it for a while because that's telling to  
2 you say I don't know.

3 MR. BUTLER: No, it's not. If she  
4 knows, I want her to testify that she knows. I  
5 don't want her to guess. You're trying to make  
6 her guess.

7 MR. SANSPREE: I'm with you,  
8 Mr. Butler.

9 MR. BUTLER: No, I don't think you are.

10 Q (By Mr. Sanspree) Go ahead.

11 A I don't know every step that they have,  
12 what they go through or what they look at.

13 Q Do you know what their duties are in  
14 the legal department as far as -- what is your  
15 understanding of the reason why you would send  
16 the claim file to the legal department?

17 A Well, we have steps in place, as the  
18 dollar amount of approval, to make sure claims  
19 are handled correctly in accordance with the  
20 provisions of the policy. We have safeguards.

21 Q Okay. Now, it's your testimony that  
22 you want to make sure the claim's handled  
23 properly according to the provisions of the  
24 policy; correct?

25 A Yes.

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1 Q And that's why you sent it to the legal  
2 department?

3 A And that it was over my authority.

4 Q Okay. So for two reasons you send it  
5 to the legal department; first to see whether or  
6 not it was handled correctly and in accordance  
7 with the policy provisions; and number two, it  
8 was over your legal authority -- I mean over your  
9 limits of authority?

10 A Yes.

11 Q All right. So the legal department,  
12 it's your understanding that they'll review the  
13 claim file and the policy to make sure that the  
14 claim is handled correctly and is handled in  
15 accordance with the policy provisions? Is that  
16 your testimony?

17 A Yes, but I don't know all -- every  
18 point that they look at within a claim file,  
19 itself.

20 Q Yes, ma'am. And part of making sure  
21 that the policy provisions are followed and that  
22 the claim is handled correctly would be to  
23 determine whether or not certain exclusions would  
24 apply; correct?

25 A Yes. They would evaluate the claim or

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1 review the claim in accordance with the  
2 exclusions and limitations.

3 Q So -- I'm sorry. Yes, ma'am. So when  
4 you boil it down, the legal department is really  
5 determining whether or not the claim should  
6 actually be payable in accordance with the policy  
7 provisions; correct?

8 A They would be reviewing the file and  
9 the facts that were in the file.

10 Q For what reason?

11 A Again, to make sure the claim was being  
12 handled correctly.

13 Q Right. When you do that, you're  
14 determining whether or not certain terms and  
15 conditions or exclusions apply; correct?

16 A Yes.

17 Q And so in essence, they're determining  
18 whether or not the claim should actually be paid  
19 or not paid --

20 MR. BUTLER: Object to the form.

21 Q (By Mr. Sanspree) -- in accordance with  
22 the policy provisions?

23 A Yes, they would be reviewing the file  
24 with the information and reviewing my suggestion  
25 in accordance with the provisions and exclusions

1 of the policy.

2 Q So if a claim's over \$50,000 and you  
3 sent it to the legal department, are you all just  
4 trying to figure out whether or not certain  
5 exclusions would apply so you wouldn't have to  
6 pay the claim?

7 A No, sir. Our job isn't to --

8 Q Why would you send it up?

9 A Our job is to make sure that the claims  
10 are handled properly and accurately. Our job is  
11 to get claims -- my job is to see that claims get  
12 paid.

13 Q Yes, ma'am. I understand that. But it  
14 appears to me from the testimony today that if a  
15 claim is a certain amount and benefits, that it's  
16 automatically sent to the legal department to  
17 review.

18 A We have steps --

19 Q Is that true?

20 A We have steps in place and authority  
21 levels to make sure that the claim is looked at  
22 twice, that there isn't an error made or an  
23 oversight, to make sure that --

24 Q Right. And --

25 A To make sure that the claim is given

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1 every consideration and handled correctly.

2 Q Right. It's your testimony -- if it's  
3 under \$50,000, you're going to do the same thing  
4 for a claim that's under \$50,000 as you are for a  
5 claim that's over \$50,000 in your job capacity?  
6 I mean, you're going to try to make sure the  
7 claim's payable or not payable -- you're not  
8 going to -- that's a bad question.

9 If a claim is over \$50,000 and it's  
10 above your authority, you're not going to handle  
11 that claim differently in your capacity as a  
12 claim that's under your authority?

13 A No. We handle all claims the same.

14 Q Okay. On all claims, your job is to  
15 make sure that the policy provisions and terms  
16 and conditions and everything are adhered to;  
17 correct?

18 A Yes, sir.

19 Q So my question to you, if you're doing  
20 the same thing for under \$50,000 claim as you are  
21 for a over \$50,000 claim and you're trying to  
22 make sure that the policy and procedures are  
23 followed and that the claim is handled correctly,  
24 why would you send it to the legal department to  
25 make sure that the policy provisions are followed

1 for an over \$50,000 policy?

2 A Well, levels of authority for claim  
3 payment is given to the supervisor and myself as  
4 the manager, and even individual claims  
5 processors. It's to ensure that the claim is  
6 looked at twice to make sure that there hasn't  
7 been anything missed.

8 Q Right. And you testified previously  
9 that there's two -- two reasons why it was sent  
10 to the legal department, this claim, was, number  
11 one, is to make sure it was handled correctly and  
12 the policy provisions were followed; number two,  
13 you said it was above your authority.

14 Is that a correct summation of your  
15 prior testimony?

16 A Yes.

17 Q All right. And that policy provisions  
18 and the claims were being handled correctly under  
19 \$50,000, why would you have to send a claim to  
20 the legal department over \$50,000 to make sure  
21 the claim is handled correctly and the policy  
22 provisions were followed?

23 A As I said, we have the safeguards in  
24 it, the dollar amount of the claim, so two people  
25 would look at it to make sure that there's

1 nothing missed.

2 We have the final step where the  
3 examiner, who's processing the benefits and is  
4 reviewing the premium payments, determining  
5 reinstatement was in place at the time, that it  
6 was done accurately. The claims examiner  
7 ultimately has some input in it also to make sure  
8 that -- that there isn't an error made.

9 Q By the legal department?

10 A No. The claims examiner at the end  
11 would even review it when -- when the claims  
12 examiner was reviewing the claim.

13 MR. BUTLER: Go ahead and finish what  
14 you're going to say, please, ma'am.

15 THE WITNESS: Well, I'm just trying to  
16 explain that even after I indicate that I believe  
17 it was a payable claim, we have safeguards -- and  
18 legal reviewed it, we have safeguards in place so  
19 the examiner, when processing the benefits, would  
20 determine that all other factors were met.

21 Q (By Mr. Sanspree) And what are those  
22 all other factors?

23 A That there wasn't any late premium,  
24 that the reinstatement was done correctly.

25 Q And you understand that these all other

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1 factors are at issue in this lawsuit; correct?

2 A Yes.

3 Q If I understand your testimony  
4 correctly, you send the claims over \$50,000 to  
5 the legal department to make sure and to double  
6 check and make sure the claim had been handled  
7 correctly and that all the policy provisions had  
8 been followed. Is that your testimony?

9 A Yes, and to review a claim that's over  
10 my dollar amount.

11 Q Who reviews or double checks the  
12 policies that are under \$50,000? Does anybody do  
13 that?

14 A Yes. Ms. Lorrah has a limit of  
15 \$35,000, so she can approve up to 35-. And then  
16 from 35- to 50- I would review.

17 Q If I understand your testimony  
18 correctly, though -- I don't think we're on the  
19 same page -- if it's under \$50,000 -- I know it's  
20 your limit, and you said you didn't know what  
21 your limit was back in 2004, but assume with me  
22 that your limit was \$50,000.

23 If it's under \$50,000 and you say  
24 payable as you did in this case and you don't  
25 send it to the legal department, is there anybody

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1       that double checks whether or not it should be  
2       payable if you don't send it to the legal  
3       department is what I'm trying to get at, other  
4       than the claims examiner at the end?

5           A     No, no. The claims examiner's  
6       responsibility is to go behind me and to bring  
7       anything that appears inappropriate to my  
8       attention.

9           Q     Is there a specific number or amount in  
10      benefits that automatically goes to the legal  
11      department or is it just whatever's over your  
12      head, like over -- what I'm trying to get at is  
13      back in 2004, you say that you can't remember  
14      what your limit was but you're sure it was less  
15      than \$50,000. So my question is: Is it just  
16      whatever -- anything that goes over your limit,  
17      does it automatically go to the legal department?

18           A     Yes. It would have to have a second  
19      approval on it.

20           Q     Ms. Whitaker, back in 2004, was anybody  
21      above you in the claim department?

22           A     Yes.

23           Q     Who was that?

24           A     Ms. Garrison.

25           Q     Is she still with the company?

1 A Yes.

2 Q Did she review the file, this file in  
3 this case?

4 A No.

5 Q And what was her limit?

6 A I don't recall what her limit was at  
7 that time.

8 Q Do you know whether or not this claim  
9 exceeded her limit in this case?

10 A I don't -- as I said, I don't recall  
11 what her limit was at that time.

12 Q What was -- was her position -- are you  
13 in her position now?

14 A No.

15 Q Is she still above you in the claim  
16 department now?

17 A Yes.

18 Q Why is it that anything that is above  
19 your head would go to the legal department  
20 instead of Ms. Garrison?

21 A Well, Ms. Garrison does have a limit,  
22 and she does audit certain claim limits.

23 Q But you don't know what that limit is,  
24 and you don't know what it was back in 2004?

25 A I don't recall what it was back then.

1 Q And you can't explain to us why the  
2 claim went immediately to the legal department  
3 instead of to Ms. Garrison for review?

4 A Other than this policy was a  
5 contestable policy or an accident which had to  
6 meet certain criteria, it was over my limit. And  
7 as I said, I don't recall what her limit was at  
8 that time.

9 Q So if I understand your testimony  
10 correctly, this policy went to the legal  
11 department because it was a contestable policy  
12 and there was an accident involved and that they  
13 had to meet certain criteria, "they" being the  
14 claimants?

15 A Yes, sir.

16 Q So it didn't go to the legal department  
17 because it was over your head?

18 MR. BUTLER: Object to the form.

19 Q (By Mr. Sanspree) I mean, if  
20 Ms. Garrison could have reviewed the file and you  
21 don't know what her limits was, then you don't  
22 know for sure if it went to the legal department  
23 because it was above your authority; correct?

24 MR. POUNDSTONE: Object to the form.

25 THE WITNESS: Okay. Restate that

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1 again.

2 Q (By Mr. Sanspree) You just testified  
3 that you don't know what Ms. Garrison's authority  
4 was back in 2004 as far as being able to pay  
5 claims. Is that a true statement?

6 A Yes, I don't remember what her examiner  
7 limit -- or her authority limit was.

8 Q And also, Ms. Garrison could review  
9 files the make sure that the claims were being  
10 handled properly and that certain policy  
11 provisions and everything were being met,  
12 correct, if it's above your limit?

13 A She could review them. That isn't in  
14 her normal regular function duties.

15 MR. BUTLER: It isn't?

16 THE WITNESS: Well, I mean, she -- we  
17 don't normally --

18 MR. BUTLER: I just asked you which  
19 word you used. It wasn't clear when you stated  
20 it.

21 THE WITNESS: We don't --

22 Q (By Mr. Sanspree) So based --

23 A Okay. On this particular claim, and  
24 any claim, we don't flow them through her for her  
25 initials or approval on the dollar limit.

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1 Q If she's got a higher limit than you  
2 do, why not?

3 A Well, she audits them and releases  
4 them.

5 Q Okay. Why didn't you all do this in  
6 this particular claim?

7 A In this particular case, the factors  
8 are different.

9 Q Right. And your prior testimony was it  
10 was sent to the legal department because it was  
11 above your limit.

12 A Yes.

13 Q That was your prior testimony.

14 A Yes.

15 Q But that's not an accurate statement,  
16 is it?

17 MR. POUNDSTONE: Object to the form.  
18 MR. BUTLER: How is it not accurate?  
19 MR. SANSPREE: Because it could have  
20 gone to Ms. Garrison who had a higher limit.

21 MR. BUTLER: Could have gone to you,  
22 but that doesn't make it inaccurate.

23 MR. SANSPREE: I don't have any limits.  
24 I'd pay the claim.

25 MR. BUTLER: Go on.

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1                   THE WITNESS: This claim was being  
2 handled as a current investigation. It was over  
3 my dollar amount. It's in our normal flow to  
4 send the claim to the legal department for those  
5 specific reasons.

6                   Q         (By Mr. Sanspree) Because it's over  
7 your dollar amount?

8                   A         And that it was an investigative claim,  
9 that we investigated it and obtained information  
10 to determine if it was eligible.

11                  Q         And by "investigative claim," are you  
12 referring to the policy type of insurance?

13                  A         I'm referring to obtaining the medical  
14 information and the ME report and toxicology  
15 report to determine if it met the policy  
16 provisions and exclusions.

17                  Q         And you referred that on to the legal  
18 department to make that decision?

19                  A         To get their opinion, yes.

20                  Q         Do you remember what their opinion was  
21 regarding meeting the policy terms and  
22 conditions?

23                  A         Well, when Wendy sent it back to the  
24 legal department regarding the premium and the  
25 policy not being in force at the time of death,

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1 it was returned.

2 Q And that was determined by the legal  
3 department; is that correct?

4 A To refund the premium?

5 Q Yes, ma'am.

6 A That was received after the date of  
7 death?

8 Q Yes, ma'am. Allegedly. Was that  
9 determined by the legal department?

10 A Our legal department would have  
11 reviewed it again.

12 Q And what I'm getting at, was the  
13 decision to refund the premium, was it made by  
14 the legal department?

15 A Yes.

16 Q All right. Ms. Whitaker, can you tell  
17 us how the legal department made that decision?

18 MR. BUTLER: Object to the form. How  
19 can she tell you --

20 MR. SANSPREE: Well, if you let me  
21 finish.

22 MR. BUTLER: All right.

23 Q (By Mr. Sanspree) Can you tell us --

24 MR. SANSPREE: There's a lag,  
25 Mr. Butler. If I pause, you might think I'm done

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1 like I've been doing with her by accident, so --

2 MR. BUTLER: Okay.

3 Q (By Mr. Sanspree) Can you tell me how  
4 the legal department makes that decision, given  
5 the fact that you had approved the claim and sent  
6 it to them?

7 A Yes. Wendy, the claims examiner,  
8 reviewed the reinstatement, reviewed the date of  
9 death prior to processing any benefits, and  
10 returned the file to them with an explanation of  
11 what was happening -- what had happened on the  
12 file.

13 Q What document are you referring to,  
14 please, ma'am?

15 MR. POUNDSTONE: It's Exhibit 5. Your  
16 Exhibit 5.

17 MR. SANSPREE: That's coming from  
18 the --

19 MR. POUNDSTONE: It's our document  
20 number 0003.

21 Q (By Mr. Sanspree) Go ahead. Did that  
22 come from the legal department? Is that what  
23 you're saying?

24 A No. I'm saying our claims examiner,  
25 prior to processing the benefit, reviewed the

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1 premium payments and the reinstatement and  
2 determined that we received the money after the  
3 date of death, that the policy wasn't in force.

4 Q All right. And so your testimony is  
5 that the legal department made the decision to  
6 refund the premiums and that this 03 somehow  
7 references that decision; is that correct?

8 A I'm referencing the 03 as it was  
9 additional information sent for review to  
10 determine if the policy was still eligible under  
11 the provisions of the policy.

12 Q And the statements that you've  
13 testified to today on the record regarding the  
14 legal department's decision to refund the  
15 premiums, is that what's blacked out there at the  
16 bottom?

17 MR. BUTLER: Go ahead. I'll let her  
18 testify if you'll agree that we're not making a  
19 blanket waiver of attorney/client privilege.  
20 Will you agree to that?

21 MR. SANSPREE: Yeah. I'm not going to  
22 do that to you.

23 MR. BUTLER: Okay.

24 MR. SANSPREE: I'll agree to that.

25 MR. BUTLER: Go ahead and tell him.

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1                   THE WITNESS: Yes. That would have  
2 been our directions.

3                   MR. SANSPREE: And with Phil's  
4 objection -- I'm not ever going to say you've  
5 waived attorney/client privilege or anything, a  
6 blanket. But with Phil's objection -- or  
7 statement in mind and my agreement not to waive  
8 that, what does it say under that black -- that's  
9 blacked out?

10                  MR. BUTLER: With that understanding,  
11 I'll let her testify, that it's no waiver.

12                  MR. SANSPREE: Right.

13                  THE WITNESS: I don't know exactly what  
14 it says.

15                  MR. BUTLER: Get the original for him.

16                  MR. POUNDSTONE: She's got it in front  
17 of her now, Chris.

18                  MR. BUTLER: I think you wanted her to  
19 read that, didn't you?

20                  MR. SANSPREE: I wanted just to know  
21 what it said since they made the decision not to  
22 pay it.

23                  THE WITNESS: Our department asked "Is  
24 it okay to refund the late premium?" And legal  
25 indicated "yes."

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1 Q (By Mr. Sanspree) Let's see. And do  
2 you know when that was done? Is there a date on  
3 there?

4 A There's no date.

5 Q I don't know what that date at the  
6 bottom is, 5-13, 2004. You don't know how that  
7 got on there, do you?

8 A That's the date that this printout  
9 screen was printed.

10 Q But you don't know the date that this  
11 information was written on there, do you?

12 A No.

13 Q The handwriting, you don't know when --

14 A No, I don't know the actual date, but  
15 it had to be after May 13th, '04.

16 Q Right. Or it could have been the same  
17 day?

18 A Yes.

19 MR. SANSPREE: When was that denial  
20 letter again, Bobby? I don't have it in front of  
21 me.

22 MR. POUNDSTONE: My recollection is  
23 it's May 18th, but don't hold me to that.

24 THE WITNESS: May 18th.

25 MR. POUNDSTONE: May 18th.

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1 Q (By Mr. Sanspree) So the handwriting --  
2 just trying to narrow it down to when the  
3 handwriting could have been put on there.

4 To the best of your knowledge, it would  
5 have to be between May 13th and then the denial  
6 letter of May 18th; correct?

7 A Yes.

8 Q Which is --

9 MR. SANSPREE: Bobby, we've produced  
10 the denial letter as Lurie 05. And we'll  
11 probably mark that as Exhibit 7. We're going to  
12 do it. We're not going to probably do it. We're  
13 going to do it.

14 MR. POUNDSTONE: I think she's got my  
15 version in front of her, but let me get that  
16 version. Okay.

17 MR. SANSPREE: If you got writing on  
18 there or anything, don't worry about it because  
19 we can get the court reporter to -- we'll  
20 reference the Bates and we can send them a copy  
21 of the Bates.

22 MR. POUNDSTONE: So you want Lurie 0005  
23 as document Number 7 or Exhibit Number 7?

24 MR. SANSPREE: Right. Exhibit number  
25 7. And it's dated May 18th, 2004.

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(Plaintiff's Exhibit Number 7 marked for identification purposes and made a part of the record)

MR. POUNDSTONE: She's got it in front  
of her.

MR. SANSPREE: I think we've marked that handwritten note document previously; is that correct, Ms. Court Reporter?

MR. POUNDSTONE: It's Number 5.

Q (By Mr. Sanspree) Ms. Whitaker, so to the best of your knowledge, that handwriting on Exhibit 5 had to come in between the date at the bottom of Exhibit 5, which is May 13, 2004, and the date of Exhibit 7, which I'll refer to as the denial letter which is dated May 18th, 2004; is that correct?

A Yes.

Q And do you have any information -- I mean, obviously you sent the file to the legal department after May 6th, 2004, when you approved the claim; right?

A Yes

Q Do you have any way of knowing when the legal department sent it back to you?

A Can I review the file for a minute?

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1 MR. POUNDSTONE: Sure.

2 MR. SANSPREE: Yes, ma'am. Take your  
3 time.

4 MR. POUNDSTONE: Here. This is a clean  
5 set that you can look through.

6 THE WITNESS: Well, it had to be  
7 sometime -- well, May 6th, thereabouts, I would  
8 have sent it up to them, and it probably would  
9 have been returned within a few days and given to  
10 the examiner on May 13th.

11 Q (By Mr. Sanspree) How do you know that,  
12 ma'am?

13 A Well, I have my date May 6th.

14 Q Right. I'm not trying to confuse you.  
15 I'm trying to follow you along in the documents.

16 How do you know that it was given to  
17 the examiner on the 13th? Is that just from  
18 Exhibit 5? Are you looking at Exhibit 5?

19 A Yes. I know she had it at that time.

20 MR. BUTLER: Chris?

21 MR. SANSPREE: Sir?

22 MR. BUTLER: In looking through the  
23 original of the claims file --

24 MR. SANSPREE: Yes, sir.

25 MR. BUTLER: -- and I have not compared

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1 the copy, but in reproducing the claims file,  
2 there is a sticky note, a little yellow looks  
3 like 1-1/2 by 2 sticky note that I'm not sure was  
4 copied.

5 MR. POUNDSTONE: It was not. I hadn't  
6 seen it before.

7 MR. BUTLER: Bobby says it's not.

8 MR. SANSPREE: I bet it's damaging to  
9 my case, isn't it?

10 MR. BUTLER: Not really. But I do want  
11 you to be sure we have all of the file.

12 MR. POUNDSTONE: Can we see it if we  
13 hold it up?

14 MR. BUTLER: Or Bobby can just read it  
15 to you.

16 MR. SANSPREE: Actually,  
17 Ms. Whitaker -- you can put it on Ms. Whitaker's  
18 forehead.

19 MR. POUNDSTONE: Can you see it?

20 MR. SANSPREE: Bobby, I can't read it.  
21 The light's different.

22 MR. POUNDSTONE: It says "To life  
23 claims," and there's a 5-14-04 date on it. And  
24 then underneath that it says "To Wendy H."

25 Q (By Mr. Sanspree) Okay. Ms. Whitaker,

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1 are you looking at that? Are you looking at that  
2 yellow sticky?

3 MR. POUNDSTONE: She has it now.

4 THE WITNESS: Yes. Can you see it?

5 Q (By Mr. Sanspree) I can see the sticky,  
6 but I can't see the information on there. The  
7 light's reflecting off of it. But who wrote that  
8 memo, do you know? Is there any indication on it  
9 who authored that?

10 A That looks like Mr. Mitchell's  
11 handwriting at the top.

12 Q Just for the record, can you read what  
13 Mr. Mitchell wrote?

14 A "To life claims 5-14-04."

15 Q All right. And then anything  
16 underneath?

17 A It says to --

18 Q You said at the top.

19 A It says "To Wendy H." Wendy --

20 Q Is that --

21 A Wendy Hamrick.

22 Q Right. But that's not his handwriting?

23 A No.

24 Q Whose handwriting is it that says "To  
25 Wendy H."? Do you have any idea?

1 A I believe it's Deborah Sager's.

2 Q So when it comes to -- just so I can  
3 understand in my head, it would come from the  
4 legal department and go to somebody at the life  
5 department. And I take it that note's referring  
6 to he probably stuck it on the file and sent the  
7 file back to the life department?

8 A Yes, I believe that would be what would  
9 happen.

10 Q And then is there somebody in the life  
11 department that would look at the file and then  
12 give it to a claims examiner? Is it Deborah? Is  
13 that who you said?

14 A No.

15 Q What I'm trying to figure out is why it  
16 says "To Wendy H," why somebody would write that  
17 on there. Did they look at the file and say this  
18 goes to Wendy?

19 A Well, Wendy sent the -- Wendy sent the  
20 file up to them. This is her note.

21 Q Okay.

22 MR. POUNDSTONE: She's referring to  
23 Exhibit 5.

24 MR. SANSPREE: Yeah.

25 Q (By Mr. Sanspree) Can you tell me

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1 who -- did you say the lady's name was Deborah  
2 that wrote the --

3 A Deborah Sager, the legal assistant.

4 Q Is she in the legal department or in  
5 your department?

6 A The legal department.

7 Q And do you know whether or not your  
8 department actually got the file on the 14th or  
9 was it sometime after that? Do you know one way  
10 or the other?

11 A I believe we got it on the 14th because  
12 Wendy did another memo to our steno section.

13 Q Can you refer me to the Bates number at  
14 the bottom, if you don't mind?

15 MR. POUNDSTONE: It's our document  
16 number 2.

17 Q (By Mr. Sanspree) Go ahead, ma'am. I  
18 didn't mean to cut you off. This indicates  
19 that --

20 A I believe that she got it on the 14th  
21 and on the 14th sent it over to our steno section  
22 for the letter of explanation.

23 Q And I know you testified when we first  
24 started this deposition that you were in the  
25 steno section originally.

1                   Do they generate the letters for you  
2 all to send out to the insureds?

3                 A     Yes.

4                 Q     And then that generation of the letters  
5 is based on information the claim department  
6 would provide the steno section; correct?

7                 A     Yes.

8                 Q     All right. And they did that on the  
9 14th? Is that your understanding?

10                A     Yes, sir.

11                Q     So just so I can follow the history of  
12 the file, you get the claim -- you get the claim,  
13 notification of the claim at least by January  
14 30th, 2004. The claim's obviously investigated.  
15 On May 6th, 2004, you recommend that it be  
16 payable; correct?

17                A     Well, we received notice of death on  
18 January 30th. We didn't receive Proof of Loss  
19 and claim forms until approximately March.

20                Q     Right. And that's why I said you  
21 received notice.

22                A     Okay.

23                Q     You at least had notice in January of  
24 the death.

25                A     Yes, we had notice of death.

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1 Q Okay. Now I was trying to get how the  
2 claim was handled through time. You get  
3 notification of the death, the claim's  
4 investigated properly, you get Proof of Loss, and  
5 on May 6th, you recommend payment.

6 A Based --

7 Q But it's -- right. Go ahead. Based on  
8 what you had in the file.

9 A You go ahead. Yes.

10 Q And but this policy type's different  
11 and the accident is different, so you send it to  
12 legal on May -- I guess May 6th.

13 A Yes.

14 Q And so the way I understand what we've  
15 gone through recently here a few minutes ago is  
16 that from May 6th to May 14th, assuming they got  
17 it on the 6th, is that the file was reviewed by  
18 legal or at least was up in the legal department?

19 MR. POUNDSTONE: Object to the form.

20 That's not accurate.

21 THE WITNESS: Okay. Can you --

22 MR. SANSPREE: I thought it was pretty  
23 accurate.

24 MR. BUTLER: No.

25 MR. SANSPREE: The sticky note -- can

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1 we mark the sticky note?

2 MR. BUTLER: Sure.

3 MR. POUNDSTONE: It went from legal,  
4 back to Wendy, back to legal, and then back to  
5 Wendy again between the 6th and the 14th.

6 (Plaintiff's Exhibit Number 8 marked  
7 for identification purposes and made a  
8 part of the record)

9 Q (By Mr. Sanspree) Now, Ms. Whitaker,  
10 you heard what your attorney just said. Could  
11 you explain what he was talking about, went to  
12 legal, back to Wendy, back to legal, back and  
13 forth in between the 6th and the 14th?

14 MR. BUTLER: We've plowed that ground a  
15 couple times, but go ahead.

16 MR. SANSPREE: I don't think we have  
17 done that.

18 MR. BUTLER: Yeah, we have.

19 MR. SANSPREE: Not between the 6th and  
20 the 14th.

21 MR. BUTLER: Yeah, we have.

22 MR. SANSPREE: That's an eight-day  
23 span.

24 MR. BUTLER: Yeah, we have, but go on.

25 THE WITNESS: From May the 6th, on my

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1 recommendations, I would have sent it to legal  
2 department.

3 Q (By Mr. Sanspree) Right.

4 A From there it was returned to us, to  
5 our life claims section.

6 Q On what day? On what day?

7 A I have to review the file again.

8 MR. BUTLER: Chris?

9 MR. SANSPREE: Sir?

10 MR. BUTLER: While she's looking for  
11 that, if we have the same agreement on non-waiver  
12 of attorney/client privilege on that document  
13 that is Exhibit Number --

14 MR. POUNDSTONE: It's not been marked I  
15 don't believe. It is our document number 0005.  
16 Have we marked that one?

17 MR. SANSPREE: No, we didn't mark that.

18 MR. POUNDSTONE: That's the other one  
19 that was redacted.

20 MR. BUTLER: I'll let her read that to  
21 you, what is redacted, if we have the same  
22 agreement on non-waiver of attorney/client  
23 privilege.

24 That may help you, but I don't think  
25 it's going to help you a lot on your chronology.

1 MR. POUNDSTONE: Let's read this.

2 MR. BUTLER: Do you want her to do  
3 that?

4 MR. SANSPREE: Well, before we do that,  
5 Phil, when you say non-waiver, I mean, is there  
6 any -- if this does get past summary judgment and  
7 we end up having to give a timeline, can we use  
8 that to establish the timeline?

9 MR. BUTLER: Yes, you can use the  
10 information. I'm just not wanting you to take  
11 the position that by showing you this  
12 information, which I truly believe is  
13 attorney/client privileged, that I'm not making a  
14 blanket waiver of attorney/client privilege.

15 MR. SANSPREE: Blanket waiver, that's  
16 agreed. I would never try to do that.

17 MR. BUTLER: Okay, yeah. I'm not  
18 saying you couldn't use it or I wouldn't have any  
19 reason to show it to you.

20 MR. SANSPREE: Okay.

21 MR. BUTLER: I'm just trying to help  
22 you, Chris.

23 MR. SANSPREE: Yeah, I believe you.  
24 He's trying to help me help you.

25 MR. BUTLER: You're doing fine.

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1                   MR. SANSPREE: Do you all want to mark  
2 that or not?

3                   MR. POUNDSTONE: If you're going to  
4 mark that, you need to mark both of them. You  
5 didn't mark it either.

6                   MR. SANSPREE: Let's just mark both of  
7 them then as Exhibit 9.

8                   MR. BUTLER: I don't have a problem  
9 with that.

10                  MR. SANSPREE: Would it be 9 and 10 or  
11 8 and 9?

12                  MR. POUNDSTONE: You can just do them  
13 collectively as 9. We'll just refer to 9 as the  
14 redacted document.

15                  (Plaintiff's Exhibit Number 9 marked  
16 for identification purposes and made a  
17 part of the record)

18                  Q        (By Mr. Sanspree) Go ahead,  
19 Ms. Whitaker. First would you read from the  
20 document which we've marked -- Globe Life 05  
21 which we've marked as 9, can you read the  
22 redacted section for me at the bottom?

23                  MR. POUNDSTONE: Right here.

24                  THE WITNESS: Did you say 05 or 09?

25                  MR. SANSPREE: There are two documents

1 that make up Exhibit 9.

2 MR. POUNDSTONE: He wants you to read  
3 the document that we produced in redacted form as  
4 our document Bates numbered 5 which you have in  
5 front of you.

6 THE WITNESS: Okay. It says "Pay  
7 SJW May 6, '04, agree BM," and then it says late  
8 premium -- "but late premium."

9 Q (By Mr. Sanspree) All right. So just  
10 so the record's clear and I'm clear, the part  
11 that's blacked out says "agree BM"?

12 A Yes.

13 Q And BM, would that be Mr. Mitchell,  
14 Brian Mitchell?

15 A Yes, sir.

16 Q So he agreed to pay it as well in  
17 legal?

18 A Based on the facts he had at that time.

19 Q And back to what we were talking about  
20 earlier, how does that help me figure out how  
21 many times the file went between the life  
22 department and legal? Because the documents I  
23 have, it appears that it just went to legal and  
24 then back to claims one time.

25 A Excuse me. No. From May 6th it went

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1 to legal to review, the same documents that I  
2 had. It came back with agreement. It went to  
3 the claims examiner --

4 Q Do you know -- real quick, just -- so  
5 it came back with agreement from Brian Mitchell  
6 with initial BM; correct?

7 A Yes.

8 Q Is there anything that you could point  
9 me to that would put a date to when the file came  
10 back from Brian?

11 A Yes. It's Globe Life Lurie --

12 MR. POUNDSTONE: Our document number 17  
13 is what she's looking at.

14 Q (By Mr. Sanspree) Okay. And how does  
15 that put a date for you on when it came back?  
16 Just to the right, the information on the right,  
17 the description section?

18 A Yes. On May 7th, it was sent to senior  
19 manager.

20 Q Who would that be?

21 A That's our legal area, our legal  
22 department.

23 Q Okay. So it's sent up -- you sent it  
24 on the 6th, and evidently they got it on the 7th?  
25 Is that the way I'm reading Lurie 17? Which

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1 we'll go ahead and mark, Bobby, as Exhibit 10.

2 MR. POUNDSTONE: Okay.

3 (Plaintiff's Exhibit Number 10 marked  
4 for identification purposes and made a  
5 part of the record)

6 Q (By Mr. Sanspree) Am I reading that  
7 correctly?

8 A It can be that, that they noted it on  
9 the 7th, that they got it on the 7th, or we sent  
10 it on the 7th. Yes, they got it on the 7th.  
11 Underneath it says "File to Brian to approve,  
12 DS."

13 Q What does DS mean?

14 A That's Deborah Sager.

15 Q So I note on the 12th it says on this  
16 record, entry date, "File to examiner to process,  
17 SJW."

18 A Yes, the file --

19 Q Is that -- go ahead. I'm sorry.

20 A The file was returned to me and I noted  
21 it to the examiner on May 12th.

22 Q All right. And then it's got an entry  
23 date of 5-13-04 that lapsed at DOD.

24 A Date of death.

25 Q Return to -- okay. And it says it's

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1 returned to senior manager. Is that when you all  
2 discovered that there was an issue with the  
3 premiums and -- when you said senior manager,  
4 you're talking about back to the legal  
5 department?

6 A Yes.

7 Q So on the 13th it was sent --

8 A Yes. Wendy returned it with her  
9 writeup.

10 Q And then the next day, it was sent to  
11 the steno for the letter to be sent out, correct,  
12 that we've marked previously as Exhibit 7?

13 A Well, yes, the file was returned to  
14 Wendy, and Wendy wrote it up on the 14th, and it  
15 went to steno, and they processed the letter on  
16 the 18th.

17 Q So you get the file back on the 12th  
18 from -- that it has been approved to pay -- to be  
19 paid by legal on the 12th?

20 A Yes.

21 Q On the 13th, it was discovered there's  
22 an issue with the premium, so it was sent back to  
23 legal?

24 A That's correct.

25 Q And then legal sent it back to the life

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1 department on the 14th, and the file was sent  
2 over to the steno for a letter of denial to be  
3 generated?

4 A That's correct.

5 Q Which ultimately went out -- the letter  
6 ultimately went out on the 18th. Is that a  
7 correct statement?

8 A Probably on the 19th, the following  
9 day.

10 MR. POUNDSTONE: Hey, Chris, this  
11 document that you're reading from is a three-page  
12 printoff. Do you want me to mark all three pages  
13 as Exhibit 10? 16, 17 and 18.

14 MR. SANSPREE: Go ahead, Bobby. I was  
15 going to read that in. 16, 17 and 18.

16 MR. POUNDSTONE: I just want to make  
17 sure we're marking the whole thing.

18 MR. SANSPREE: Can we mark those as 10,  
19 and then just for the record refer that I was  
20 reading from the second page which is Bates  
21 number 17 in that line of questioning.

22 MR. BUTLER: I'm not trying to rush  
23 you, Chris, but we do have your other witness  
24 here.

25 MR. SANSPREE: Thank you, Mr. Butler.

(Plaintiff's Exhibit Number 10 marked  
for identification purposes and made a  
part of the record)

Q (By Mr. Sanspree) Ms. Whitaker, I'll refer you back to Exhibit 6 which are the Interrogatory responses you all sent to me in response to questions I sent to you all.

MR. POUNDSTONE: She has them.

Q (By Mr. Sanspree) Have you got to those yet?

MR. POUNDSTONE: She has them.

Q (By Mr. Sanspree) Now, in Interrogatory number 1, it notes that you and Barbara Hernandez answered these questions.

Did you all sit down together and answer them or did you do it -- you just put down what you knew and sent it to her and she did the same to you or -- how did that happen?

A I worked with our legal department, Mrs. Peterson. And no, Barbara and I didn't sit down together.

Q So you and Ms. Peterson answered -- did Barbara answer these questions, too, or was it just you and Ms. Peterson?

A I worked with Staci on my areas.

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1 Q And which areas -- do you remember -- I  
2 mean, can you go through these and tell me which  
3 ones you answered and which ones -- they're not  
4 set out like that.

5 In the response it doesn't say Sandy  
6 and then it doesn't say Barbara answered these or  
7 anything like that. Do you remember which one --

8 A My knowledge would have been in  
9 connection with the claim file.

10 Q Right. See, all these questions pretty  
11 much pertain to the claim. I'm not trying to be  
12 difficult. I'm just wondering which ones you  
13 were able to sit down and answer as opposed to  
14 Barbara.

15 MR. BUTLER: Is it really necessary  
16 that we go through the entire set of  
17 Interrogatories, Chris?

18 MR. SANSPREE: Hopefully she can just  
19 glance through these and -- how do you want to do  
20 it, Phil? I can read these and just ask her.

21 Some of these are obvious -- some of  
22 them are obviously either the legal department or  
23 you had to answer them, like expert witnesses and  
24 stuff like that, I don't think she's going to  
25 know any of that.

1                   MR. BUTLER: I know it. But I don't  
2 think it's -- I understand she signed the  
3 Interrogatories. And if you insist on it, we'll  
4 take the time to do it. I just don't think it's  
5 necessary, but it's not my case, it's yours.

6                   Q        (By Mr. Sanspree) Well, let me ask you  
7 this, then, Ms. Whitaker. Who made the ultimate  
8 decision to deny this claim?

9                   A        The claims examiner determined that the  
10 policy was not in force at the time of the death,  
11 so it was sent back to our legal department to  
12 review. And it was under their instructions  
13 after our recommendation was to return the  
14 premium and explain that the policy wasn't in  
15 force.

16                  Q        Okay. So somebody in the legal  
17 department ultimately said pull the trigger?

18                  A        Well, they agreed with our  
19 recommendations based on the new information that  
20 they had regarding the premium.

21                  Q        Right. But, you know, somebody in the  
22 life department had to run it by legal, correct,  
23 before they -- before they could just deny the  
24 claim?

25                  A        Yes. The supervisor and our claims

1 examiner recognized that the premium wasn't paid  
2 prior to the expiration of the grace period and  
3 that the policy wasn't in force at the time of  
4 death and sent it back to our legal department  
5 for review.

6 Q Could you have denied it without  
7 sending it to legal?

8 A No. That's not our -- our policy.

9 Q So what I'm trying to get at is legal  
10 pretty much made the decision to deny the claim?

11 A We recommended it to be -- the premium  
12 be returned based on our new findings.

13 Q Right.

14 A We recommended it one time that based  
15 on the findings, it was payable.

16 Q Right. But each time it was run by  
17 legal.

18 A Right, because we have checks and  
19 balances in place to make sure that things of  
20 this instance are caught and that the claims are  
21 handled correctly.

22 We have an obligation as the life claim  
23 department to make sure each claim is handled  
24 correctly. We have a responsibility to all  
25 policyholders. And they have to have checks and

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1        balances in place so there isn't a -- isn't a  
2        claim mishandled.

3            Q        Well, and I understand that. But what  
4        I'm trying to get at is that the ultimate  
5        decision was made by the legal department to deny  
6        the claim. What if they would have said pay it,  
7        would you have paid it?

8            A        Based on their recommendation, yes.

9            Q        All right. So they made the ultimate  
10      decision not to pay it? When I say "they," I  
11      mean the legal department.

12          A        Based on our findings, based on the new  
13      evaluation of the material, they agreed with us  
14      that the claim wouldn't have been eligible under  
15      the terms and provisions of the policy.

16          Q        So they said go ahead and deny the  
17      claim?

18          A        They indicated that they agreed with us  
19      to refund the premium that was received after the  
20      date of death.

21          Q        Right. So they told you to go ahead  
22      and do it?

23          A        They agreed with us, yes, and we  
24      proceeded with that recommendation.

25          Q        All I'm trying to get at is I need to

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1 know who is the person that denied the claim;  
2 okay? I'm not trying to be tricky with it. But  
3 you keep saying they agreed with us, but  
4 somebody's got to make the decision.

5 MR. BUTLER: She said yes.

6 Q (By Mr. Sanspree) There has to be a  
7 decision made by somebody.

8 MR. BUTLER: Object to the form. She  
9 said yes in answer to your question that they  
10 instructed them to do it.

11 MR. SANSPREE: Thank you. Great.  
12 That's all I wanted. Just wanted to know if it  
13 was the legal department that made the decision,  
14 and Mr. Butler's indicated it was yes. Thank  
15 you.

16 MR. BUTLER: Hopefully we ain't going  
17 to ride that horse anymore.

18 MR. SANSPREE: Can I ask it one more  
19 time?

20 MR. BUTLER: No.

21 Q (By Mr. Sanspree) Have you ever been  
22 named as a party defendant in a lawsuit,  
23 Ms. Whitaker?

24 A Okay. What do you mean by that? I  
25 don't understand exactly what --

1 Q Have you ever been sued before  
2 individually in your individual capacity?

3 A Yes.

4 Q What kind of case was that?

5 A Well, actually it was in connection  
6 with a lawsuit that was filed at Globe. The  
7 attorney inadvertently sued me individually.

8 Q Do you remember when that was?

9 A No, I don't.

10 Q Was it recently or --

11 A I just don't have the date at the top  
12 of my head.

13 Q What were the allegations made against  
14 you individually?

15 A You know, it was in connection with  
16 work. It wasn't individually. I mean, the  
17 lawsuit -- he did file against me individually,  
18 but it was in connection with a work -- with my  
19 work.

20 Q Like denial of benefit or something  
21 like that?

22 A It was in connection with a claim.

23 Q Was it in connection with a claim not  
24 being paid?

25 A I don't recall if it was not being paid

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1 or -- I just don't remember the circumstances.

2 Q Let me ask you this. To your  
3 knowledge, has Globe Life ever been sued by an  
4 insured when the claim was paid?

5 A I'd have to think about that just a  
6 moment. I think there could be an instance that  
7 even if we paid the claim, there could have been  
8 an instance that they were sued. I just don't  
9 recall any.

10 Q I'm just trying to do a little  
11 deduction here. I don't see why anybody would  
12 sue if the claim was paid.

13 What I'm trying to get at is do you  
14 think the lawsuit involved a claim not being paid  
15 and they probably just went through the file and  
16 saw your name and named you individually? Is  
17 that what happened?

18 A You're asking me if it ever happened.  
19 And in 35 years, it's possible. I just don't  
20 recall any instance where that would be. But  
21 you're asking me if it's ever possible, and I'm  
22 trying to answer you the best that I can.

23 Q Actually I just asked you in this case  
24 that you were talking about, whether or not -- I  
25 was trying to jog your memory whether or not you

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1       were sued because the claim was not paid and just  
2       made the deduction that most people don't file a  
3       lawsuit if the claim is paid.

4                    MR. BUTLER: Surely you're not going to  
5       start a series of questions asking her why  
6       plaintiff's lawyers decide when to sue.

7                    MR. SANSPREE: I might, Phil.

8                    MR. BUTLER: You might, but you ain't  
9       going to have us sitting here entertaining them.

10          Q        (By Mr. Sanspree) What I'm trying to  
11       get at is were you named individually because of  
12       your decision or your involvement with a claim  
13       for benefits?

14          A        I don't recall the exact reasoning. It  
15       wasn't warranted.

16          Q        With you being named or the lawsuit?

17          A        Well, my opinion, both, but --

18          Q        Do you know what happened to that  
19       lawsuit?

20          A        No, sir, I don't.

21          Q        What was the resolution?

22          A        No, sir.

23          Q        Is it still pending, to your knowledge?

24          A        Pardon me?

25          Q        I was just asking was it still pending?

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1 A I couldn't answer that. I don't know.

2 Q Have you talked with Barbara about her  
3 testimony today, Ms. Whitaker, Barbara Hernandez?

4 A No, I have not.

5 Q Did you tell her you were coming in to  
6 give testimony?

7 A I didn't tell her personally.

8 Q And you and Ms. Hernandez have not  
9 discussed your testimony, what you're going to  
10 say or anything like that, prior to coming in  
11 today?

12 A No, I have not talked to her.

13 Q What all did you look at before your  
14 testimony? Did you look at the claim file before  
15 you came in today?

16 A Yes, sir.

17 Q Did you go over the Interrogatory  
18 responses and stuff like that?

19 A Yes, sir.

20 Q Have you ever been trained on how to  
21 give a deposition, like watch any videos or  
22 anything other than what your lawyers told you?  
23 Did you watch any videos or stuff like that, had  
24 any training from the company?

25 A No, sir.

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1 Q It's kind of a silly question, but  
2 you'd be surprised.

3 MR. SANSPREE: That's all I've got,  
4 Phil.

5 MR. BUTLER: Thank you, sir. I think  
6 under our usual stipulations, she doesn't have to  
7 read and sign. Isn't that right, Chris?

8 MR. SANSPREE: That's the way it is.  
9 I'm not opposed to -- you can do it however you  
10 want to.

11 MR. BUTLER: We'll waive.

12 (Deposition adjourned at 12:26 p.m.)

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1 C E R T I F I C A T E  
23 STATE OF OKLAHOMA )  
4 COUNTY OF OKLAHOMA ) SS:  
56 I, ELIZABETH CAUDILL, CSR in and for  
7 the State of Oklahoma, certify that SANDY  
8 WHITAKER was by me sworn to testify the truth;  
9 that the above and foregoing deposition was taken  
10 by me in stenotype and thereafter transcribed and  
11 is a true and correct transcript of the testimony  
12 of the witness; that the deposition was taken on  
13 SEPTEMBER 14, 2006 at 9:11 a.m. in Oklahoma City,  
14 Oklahoma; that I am not an attorney for or a  
15 relative of either party, or otherwise interested  
16 in this action.17 Witness my hand and seal of office on  
18 this 25th day of September, 2006.  
19  
2021  
22 ELIZABETH CAUDILL, CSR, RMR, CRR  
CSR No. 161  
23  
24  
25